

Supreme Court of Judicature (Ireland) Bill.

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B I L L

FOR

The constitution of a Supreme Court of Judicature, and A.D. 1877.
 for other purposes relating to the better Administration —
 of Justice, in Ireland.

WHEREAS it is expedient to constitute a Supreme Court of Judicature, and to make provision for the better administration of justice, in Ireland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited for all purposes as the "Supreme Court of Judicature Act (Ireland), 1877."

2. This Act, except where otherwise expressly provided, shall commence and come into operation on the first day of January one thousand eight hundred and seventy-eight.

3. In the construction of this Act, unless there is anything in the subject or context repugnant thereto, the several expressions herein-after mentioned shall have, or include, the meanings following; (that is to say,) Interpretation of terms.

"High Court of Chancery" and "Court of Chancery" respectively shall mean the High Court of Chancery in Ireland, and shall include the Lord Chancellor.

"Court of Queen's Bench" shall mean the Court of Queen's Bench in Ireland.

"Court of Common Pleas" shall mean the Court of Common Pleas in Ireland.

"Court of Exchequer" shall mean the Court of Exchequer in Ireland.

"High Court of Admiralty" shall mean the High Court of Admiralty of Ireland.

"Court of Probate" shall mean the Court of Probate in Ireland.

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- "Court for Matrimonial Causes and Matters" shall mean the Court for Matrimonial Causes and Matters in Ireland.
- "Landed Estates Court" shall mean the Landed Estates Court, Ireland.
- "Court of Bankruptey" shall mean the Court of Bankruptey in Ireland.
- "Lord Lieutenant" shall mean the Lord Lieutenant or other Chief Governor or Governors of Ireland for the time being.
- "Lord Chancellor" shall mean Lord Chancellor of Ireland, and shall include Lords Commissioners and Lord Keeper of the Great Seal of Ireland.
- "The Lord Chief Justice" shall mean the Lord Chief Justice of Ireland.
- "Master of the Rolls" shall mean the Master of the Rolls in Ireland.
- "Lord Justice of Appeal" shall mean the Lord Justice of Appeal in Chancery in Ireland.
- "Vice-Chancellor" shall mean the Vice-Chancellor of Ireland.
- "High Court" shall mean Her Majesty's High Court of Justice in Ireland established by this Act.
- "Court of Appeal" shall mean Her Majesty's Court of Appeal in Ireland established by this Act.
- "The Treasury" shall mean the Commissioners of Her Majesty's Treasury for the time being, or any two of them.
- "Rules of Court" shall include forms.
- "Cause" shall include any action, suit, or other original proceeding between a plaintiff and a defendant, and any criminal proceeding by the Crown.
- "Suit" shall include action.
- "Action" shall mean a civil proceeding commenced by writ, or in such other manner as may be prescribed by Rules of Court; and shall not include a criminal proceeding by or in the name of the Crown.
- "Plaintiff" shall include every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the same be taken by cause, action, suit, petition, motion, summons, or otherwise.
- "Petitioner" shall include every person making any application to the Court, either by petition, motion, or summons, otherwise than as against any defendant.
- "Defendant" shall include every person served with any writ of summons or process, or served with notice of, or entitled to attend any proceedings.

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"Party" shall include every person served with notice of, or attending any proceeding, although not named on the Record.

"Matter" shall include every proceeding in the Court not in a cause.

5 "Pleading" shall include any petition or summons, and also shall include the statements in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counter-claim of a defendant.

10 "Judgment" shall include decree.

"Order" shall include rule.

"Oath" shall include solemn affirmation and statutory declaration.

15 "Crown cases reserved" shall mean such questions of law reserved in Criminal Trials as are mentioned in the Act of the eleventh and twelfth years of Her Majesty's reign, chapter seventy-eight.

"Pension" shall include retirement and superannuation allowance.

20 "Existing" shall mean existing at the time appointed for the commencement of this Act.

"Registration of Voters Acts" shall mean the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter sixty-nine, and all other Acts or parts of Acts relating to the registration or qualification of persons entitled to vote at the election of members to serve in Parliament for Ireland.

25 "Land" shall have the same meaning as in the Act of the session of the twenty-first and twenty-second years of the reign of Her present Majesty, chapter seventy-two, intituled "An Act to facilitate the sale and transfer of land in Ireland."

"Officers" shall include "clerks."

PART I.

Constitution and Judges of Court of Judicature.

35 4. From and after the time appointed for the commencement of this Act, the several Courts herein-after mentioned, (that is to say,) The High Court of Chancery, the Court of Queen's Bench, the Court of Common Pleas, the Court of Exchequer, the Court of Probate, the Court for Matrimonial Causes and Matters, and the [66.]

Unions of existing Courts into one Supreme Court of Judicature.

A.D. 1873. Landed Estates Court, shall be united and consolidated together, and shall constitute, under and subject to the provisions of this Act, one Supreme Court of Judicature in Ireland.

Division of Supreme Court into a Court of original and a Court of appellate jurisdiction.

5. The said Supreme Court shall consist of two permanent Divisions, one of which, under the name of "Her Majesty's High Court of Justice in Ireland," shall have and exercise original jurisdiction, with such appellate jurisdiction from inferior Courts as is herein-after mentioned, and the other of which, under the name of "Her Majesty's Court of Appeal in Ireland," shall have and exercise appellate jurisdiction, with such original jurisdiction as herein-after mentioned as may be incident to the determination of any appeal.

Constitution of High Court of Justice in Ireland.

6. Her Majesty's High Court of Justice in Ireland shall be constituted as follows:—The first Judges thereof shall be the Lord Chancellor, the Lord Chief Justice, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, the Lord Chief Baron of the Exchequer, the Vice-Chancellor, the several Puisne Justices of the Courts of Queen's Bench and Common Pleas respectively, the several Junior Barons of the Court of Exchequer, the Judge of the Court of Probate and of the Court for Matrimonial Causes and Matters, and the Judges of the Landed Estates Court, except such, if any, of the aforesaid Judges as shall be appointed an ordinary Judge of the Court of Appeal.

The Lord Chancellor shall be appointed and shall hold his office in the same manner as heretofore.

Whenever the office of a Judge of the said High Court, other than the Lord Chancellor, shall become vacant, a new Judge may be appointed thereto by Her Majesty, by Letters Patent.

All persons to be hereafter appointed to fill the places of the Lord Chief Justice, the Master of the Rolls, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron, and their successors respectively, shall continue to be appointed to the same respective offices, with the same precedence, and by the same respective titles, and in the same manner, respectively, as heretofore. Every Judge, other than the Lord Chancellor and the Judges last-mentioned, who shall be appointed to fill the place of any Judge of the High Court of Justice, shall be styled in his appointment "Judge of Her Majesty's High Court of Justice in Ireland."

Any vacancy which may exist at the time of the commencement of this Act, or the first vacancy which shall occur next after the commencement of this Act, in any one of the offices of the Puisne Justices of the Common Pleas or of the Junior Barons of the

A.D. 1877.

Exchequer respectively, shall not be filled by the appointment of
any new Judge, save by virtue of the provisions in that behalf
herein-after contained.

Provided always, that when first after the commencement of this
5 Act one of the existing Judges of the Landed Estates Court shall
die, resign, or otherwise vacate his office, the vacancy thus occa-
sioned shall not be filled up until a Commission shall have been
issued by Her Majesty under her Royal Sign Manual to ascertain
and report whether the business in connexion with the Division of
10 the High Court of Justice (herein-after termed the Chancery
Division) makes it requisite that such appointment should be made,
nor until the expiration of a period of *forty* days after the date of
such report, if Parliament be then sitting, and if Parliament be not
then sitting, until the expiration of a period of *forty* days after the
15 commencement of the then next Session of Parliament.

All the Judges of the Supreme Court shall be addressed in the
manner which is now customary in addressing the Judges of the
Superior Courts of Common Law in Ireland, and shall have in all
respects, save as in this Act otherwise expressly provided, equal
20 power, authority, and jurisdiction.

The Lord Chancellor for the time being, or in his absence the
Lord Chief Justice for the time being, shall be President of the High
Court of Justice.

7. The jurisdiction exercised by the Judges of the Landed Estates
25 Court shall continue to be exercised by them, and by the Judges
who may from time to time be appointed to succeed them, and, *As to Judges
of Landed
Estates*
in the case of illness, absence, or other inability of them or either
of them to discharge their duties, or of a vacancy in the office
of the said Judges or either of them, by any other Judge of the
30 Chancery Division of the High Court.

If the state of business, in connexion with their peculiar jurisdic-
tion shall permit, the said Judges shall in addition be bound
from time to time to assist in the general business of the Chancery
Division.

35 The existing Judges of the Landed Estates Court and their suc-
cessors shall be Judges of the Division of the High Court of Justice
in this Act termed the Chancery Division, and shall be distinguished
as the Land Judges of the said Division. The rules and orders and
40 practice of the Landed Estates Court shall continue to be used in
proceedings for the sale or partition of estates, declaration or record
of titles, and all other proceedings which would have been within
the exclusive cognizance of the Landed Estates Court if this Act

A.D. 1877. had not passed, before the Land Judges, unless and until altered by the Lord Chancellor and the said Judges. The Lord Chancellor and the Land Judges, or either of them, may from time to time alter the rules and orders and practice in all proceedings before the Land Judges, and make new rules and orders for the regulation of such practice and proceedings.

There shall be a separate seal for the Land Judges, and conveyances executed with this seal shall have the same force as those executed with the seal of the Landed Estates Court.

As to Judges of Court of Bankruptcy. 8. The existing Judges of the Court of Bankruptcy and their successors in such offices respectively shall be appointed in the same manner as heretofore, and shall, as to tenure of office, rank, title, patronage, rights, privileges, and powers of appointment and dismissal, salary, pension, jurisdiction, powers, and authority respectively, remain and be in the same condition and be liable to discharge the same duties respectively, and none other, as if this Act had not been passed.

The practice and procedure of the Court of Bankruptcy, and the powers to make rules and orders regulating the same, shall continue and be exercised in the same manner as if this Act had not been passed. The tenure, salaries, pensions, rights, privileges, and duties of the officers of the said Court shall also continue the same as if this Act had not been passed.

Appeals from orders of the Judges of the said Court shall lie to the Court of Appeal constituted by this Act, in the same manner and in respect of the same proceedings as heretofore to the Court of Appeal in Chancery, save so far as the procedure on appeals may be altered by any rules or orders to be made in pursuance of this Act.

Existing Judge of Admiralty. 9. The existing Judge of the High Court of Admiralty shall retain the same jurisdiction, authority, rights of patronage, and of dismissal, rank, and salary as if this Act had not been passed.

Appeals from his orders and decrees shall lie to the Court of Appeal constituted by this Act in the same manner and in respect of the same proceedings as heretofore to the Court of Appeal in Chancery, save so far as the procedure on appeals may be altered by any rules or orders to be made in pursuance of this Act.

When the existing Judge of the High Court of Admiralty shall die, resign, or otherwise vacate his office, no person shall be appointed to succeed him in his said office, and thereupon the High Court of Admiralty in Ireland shall be united and consolidated with the Supreme Court of Judicature in Ireland, and all the jurisdiction vested in and capable of being exercised by the Judge

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of the said Court of Admiralty, and all causes and proceedings then pending in the said Court, shall be transferred to the High Court of Justice. The jurisdiction theretofore vested in and capable of being exercised by the Judge of the said Court of Admiralty shall thenceforth be vested in and may be exercised by the Judge of the Probate and Matrimonial Division herein-after constituted; and all causes and proceedings in Admiralty, whether so transferred or afterwards commenced, shall proceed and be heard before and by such last-mentioned Judge. Until such transfer of jurisdiction to the High Court of Justice as aforesaid the Lord Chancellor, with the concurrence of the Treasury, shall, on vacancy in the offices of the Admiralty Court, make provision for the temporary discharge of the duties of such offices.

It shall be lawful for the Lord Lieutenant, with the consent of the Lord Chancellor and the concurrence of the Treasury, to release the existing Judge of the Court of Admiralty from the further discharge of his duties, but without prejudice to his right to continue to receive his salary; and thereupon the several provisions herein-before expressed to take effect on resignation or other vacancy of his office shall come into operation.

10. Her Majesty's Court of Appeal in Ireland shall be constituted as follows: There shall be four ex officio Judges thereof, and two ordinary Judges, who shall from time to time be appointed by Her Majesty. The ex-officio Judges shall be the Lord Chancellor, the Lord Chief Justice, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron of the Exchequer. The first ordinary Judges of the said Court shall be the existing Lord Justice of Appeal in Chancery, and such other person as Her Majesty may be pleased to appoint by Letters Patent; such appointment may be made either before or after the commencement of this Act, and if made before shall take effect from the commencement of this Act, and may be made upon the terms as to salary and otherwise, and subject to the conditions and in the manner provided by the "Chancery Appeal Court (Ireland) Act, 1856," in respect of the office thereby created.

Constitution
of Court of
Appeal.

Besides the said ex officio Judges and ordinary Judges, it shall be lawful for Her Majesty (if she shall think fit) to appoint under Her Royal Sign Manual as additional Judges of the Court of Appeal any persons who, having held the office of Lord Chancellor or of Chief Justice, Chief Justice of the Common Pleas, or Chief Baron of the Exchequer in Ireland, shall signify in writing their willingness to serve as such additional Judges.

The ordinary and additional Judges of the Court of Appeal shall be styled Lords Justices of Appeal. All the Judges of the said

A.D. 1877. Court shall have in all respects, save as in this Act is otherwise expressly provided, equal power, authority, and jurisdiction.

Whenever the office of an ordinary Judge of the Court of Appeal becomes vacant, a new Judge may be appointed thereto by Her Majesty by Letters Patent, as provided by the "Chancery Appeal 5 Court (Ireland) Act, 1856."

The Lord Chancellor for the time being shall be President of the Court of Appeal. Except in matters which are by this Act, or by some other Act, specially reserved to the Lord Chancellor, he shall not be bound or required to exercise any of the functions of a Judge 10 of the High Court, or of the Chancery Division of the same, unless he shall, by special order, direct that any matter shall be disposed of by himself, but all such matters shall be disposed of by one of the other Judges of the Chancery Division, and the Lord Chancellor shall in relation to such matters exercise only the functions of a 15 Judge of the Court of Appeal.

*Vacancies by
resignation
of Judges
.and effect of
vacancies
generally.*

11. The office of any Judge of the Court of Appeal or of any Judge of the High Court of Justice may be vacated by resignation in writing, under his hand, addressed to the Lord Lieutenant, without any deed of surrender; and the office of any Judge of the 20 said High Court shall be vacated by his being appointed to the office of ordinary Judge of the Court of Appeal. The said Courts respectively shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any Judge.

*Qualifica-
tions of
Judges.*

12. Any person who has practised for not less than 25 years at the Bar of Ireland shall be qualified to be appointed a Judge of the said High Court of Justice; and any person who if this Act had not passed would have been qualified by law to be appointed Lord Justice of the Court of Appeal in Chancery in Ireland, or has been a Judge of the High Court of Justice of not less than 30 one year's standing, shall be qualified to be appointed to the office of ordinary Judge of the said Court of Appeal.

*Term of
office of
Judges, and
oath of
office.*

13. Every Judge of the High Court of Justice other than the Lord Chancellor, and every ordinary Judge of the Court of Appeal, shall hold his office for life, subject to a power of removal by Her 35 Majesty, on an address presented to Her Majesty by both Houses of Parliament. No Judge of either of the said Courts shall be capable of being elected to or of sitting in the House of Commons. Every Judge of either of the said Courts (other than the Lord Chancellor) when he enters on the execution of his office, shall 40 take, in the presence of the Lord Chancellor, the oath of allegiance, and judicial oath as defined by the Promissory Oaths Act, 1868.

The oaths to be taken by the Lord Chancellor shall be the same as heretofore.

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14. The ex officio Judges of the Court of Appeal shall rank in the Supreme Court of Judicature in Ireland in the order of their present respective official precedence. The ordinary Judges of the Court of Appeal shall rank as provided by the "Chancery Appeal Court (Ireland) Act, 1856," and if otherwise of equal rank, between themselves according to the priority of their respective appointments.

10 The Judges of the High Court of Justice, who are not also Judges of the Court of Appeal, shall rank next after the ordinary Judges of the Court of Appeal, and among themselves (subject to the provisions herein-after contained as to existing Judges) according to the priority of their respective appointments.

15. Every existing Judge who is by this Act made a Judge of the High Court of Justice or ordinary Judge of the Court of Appeal shall, as to tenure of office, rank between himself and the other existing Judges, title, patronage, and powers of appointment and dismissal, and all other privileges and disqualifications, and also as to salary and pension, save as is herein provided, remain in 20 the same condition as if this Act had not passed; and, subject to the change effected in their jurisdiction and duties by or in pursuance of the provisions of this Act, every such existing Judge shall be capable of performing and liable to perform all duties which he would have been capable of performing or liable to perform in pursuance 25 of any Act of Parliament, law, or custom if this Act had not passed.

No Judge, whether of the High Court of Justice or of the Court of Appeal, who was appointed before the first of January one thousand eight hundred and seventy-five shall be required, without his own consent, to act under any Commission of Assize, Nisi Prius, 30 Oyer and Terminer, or Gaol Delivery, or for the trial of crimes and offences, unless he were so liable by usage or custom at the time of the passing of this Act; but every Judge, whether of the High Court of Justice or of the Court of Appeal, appointed after the said date shall from and after the passing of this Act be capable and 35 bound to act in such Commission, if named therein.

Service as a Judge in the High Court of Justice, or as an ordinary Judge in the Court of Appeal, shall, in the case of an existing Judge, for the purpose of determining the length of service entitling such Judge to a pension on his retirement, be deemed to be a continuation of his service in the Court of which he is a Judge at the time of the commencement of this Act.

The provisions of this section shall not apply to the Lord Chancellor.

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B

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Provisions
for successive
duties
of Judges of
the former
Courts.

16. If, in any case not expressly provided for by this Act, a liability to any duty, or any authority or power, not incident to the administration of Justice in any Court whose jurisdiction is transferred by this Act to the High Court of Justice, shall have been imposed or conferred by any statute, law, or custom, upon the 5 Judges or any Judge of any of such Courts, every Judge of the said High Court, except where otherwise expressly directed by this Act, shall be capable of performing and exercising, and shall be liable to perform and empowered to exercise every such duty, authority, and power, in the same manner as if this Act had not passed, and as if he had been duly appointed the successor of a Judge liable to such duty, or possessing such authority or power, before the passing of this Act. Any such duty, authority, or power, imposed or conferred by any statute, law, or custom, in any such case as aforesaid upon the Lord Chancellor, the Lord Chief Justice, 15 the Master of the Rolls, the Lord Chief Justice of the Common Pleas, or the Lord Chief Baron, shall continue to be performed and exercised by them respectively, and by their respective successors, in the same manner as if this Act had not passed.

Salaries of
certain exist-
ing Judges.

17. From and after the time fixed for the commencement of 20 this Act, there shall be paid to the existing Judges herein-after mentioned the following salaries; that is to say,

To the Master of the Rolls *four thousand pounds a year.*

To each of the Puisne Justices and Junior Barons, and to the Judge of the Courts of Probate and for Matrimonial Causes and 25 Matters, *three thousand eight hundred pounds a year.*

Such salaries shall be instead of the salaries by law payable to such Judges immediately before such commencement, and such salaries shall be paid to such Judges respectively on the same days and in the same manner in every respect as their former 30 salaries; the pension which may be granted to the existing Master of the Rolls shall be such as would be payable to him if this Act had not passed, and the pensions which may be granted to all other existing Judges shall be *two thirds* of the salaries which, after the commencement of this Act, shall be payable to them respectively. 35

Salaries of
future
Judges.

18. There shall be paid to Judges appointed after the commencement of this Act the following salaries, which shall in each case include any pension to which the Judge may be entitled in respect of any public office previously filled by him:

To the Lord Chief Justice *five thousand pounds a year, and to 40 the Lord Chief Justice of the Common Pleas, and the Lord*

Chief Baron of the Exchequer, each, *four thousand six hundred pounds* a year.

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To each ordinary Judge of the Court of Appeal such salary as in pursuance of the "Chancery Appeal Court (Ireland) Act, 1856," might have been assigned for him if he had been appointed under the said Act.

5 To each of the other Judges of the High Court of Justice, the sum of *three thousand five hundred pounds* a year.

The Chiefs of the Divisions termed in this Act the Queen's Bench,

10 Common Pleas, and Exchequer Divisions, whether appointed before or after the commencement of this Act, and the other Judges of the same Divisions who were appointed before the commencement of this Act, shall not be entitled to any allowance in addition to their salaries in respect of circuit. Every other Judge of the High 15 Court of Justice, or of the Court of Appeal, whether appointed before or after the commencement of this Act, who shall actually go circuit as a Judge shall be entitled to receive in respect of such circuit *one hundred and fifty pounds*. This last provision shall apply, immediately on the passing of this Act, to any Judge who, 20 not being a Judge of a Common Law Court, shall be named in the commission and shall actually go circuit.

Any Judge, whether appointed before or after the passing of this Act, who shall be sent as Judge for a winter assizes or special commission shall be entitled to receive in respect thereof such additional payment, not exceeding the amount allowed for a circuit, as the Lord Lieutenant shall determine; but no Judge shall receive any additional or extra payment in respect of an adjourned assizes: Provided always, that nothing herein contained shall affect such rights to remuneration in respect of any adjourned assizes 30 as the existing Lord Chief Justice, Chief Justice of the Common Pleas, and Lord Chief Baron possessed before the passing of this Act.

No salary shall be payable to any additional Judge of the Court of Appeal, but nothing in this Act shall in any way prejudice the 35 right of any such additional Judge to any pension to which he may be by law entitled.

19. Her Majesty may, by Letters Patent, grant to any Judge of the High Court of Justice other than the Lord Chancellor and also to any ordinary Judge of the Court of Appeal appointed after the 40 commencement of this Act who has served for *fifteen years* as a Judge in such Courts, or either of them, or who is disabled by permanent infirmity from the performance of the duties of his

*Retiring
pension of
fifty
Judges of
High Court
of Justice,
and ordinary
Judges of
Court of
Appeal.*

A.D. 1871. office, a pension, by way of annuity, to be continued during his life, of the amount following; (that is to say,) —

In the case of the ordinary Judges of the Court of Appeal, the same amount of pension which might have been granted to the Lord Justice of the Court of Appeal in Chancery in 5 Ireland if this Act had not passed:

In the case of the Judges of the High Court of Justice, two thirds of their respective salaries.

Salaries and pensions how to be paid. 20. *The salaries, allowances, and pensions payable to the Judges of the High Court of Justice and the ordinary Judges of the Court of Appeal respectively under this Act, shall be charged on and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, or the growing produce thereof: such salaries and pensions shall grow due from day to day, but shall be payable to the persons entitled thereto, or to their executors or administrators, 15 on the usual quarterly days of payment, or at such other periods in every year as the Treasury may from time to time determine.*

PART II.

Jurisdiction and Law.

Jurisdiction of High Court of Justice. 21. The High Court of Justice shall be a Superior Court of Record, and, subject as in this Act mentioned, there shall be transferred to and vested in the said High Court of Justice the jurisdiction which, at the commencement of this Act, was vested in, or capable of being exercised by, all or any of the Courts following; (that is to say,) —

- (1.) The High Court of Chancery, as a Common Law Court as well as a Court of Equity, including the jurisdiction of the Master of the Rolls, as a Judge or Master of the Court of Chancery, and any jurisdiction exercised by him or the Lord Chancellor in relation to the Court of Chancery as a Common Law Court, and including any jurisdiction of the Masters in Chancery;
- (2.) The Court of Queen's Bench;
- (3.) The Court of Common Pleas;
- (4.) The Court of Exchequer, as a Court of Revenue, as well as a Common Law Court;
- (5.) The Court of Probate;
- (6.) The Court for Matrimonial Causes and Matters;
- (7.) The Landed Estates Court, including the control and direction of the Record of Title Office of the said Court, and all

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powers and authorities exercised by the Judges of the said Court, or any of them, under the Record of Title Act, 1865 :

(8.) The Courts created by Commissions of Assize, of Oyer and Terminer, and of Gaol Delivery, or any of such Commissions :

The jurisdiction by this Act transferred to the High Court of Justice shall include (subject to the exceptions herein-after contained) the jurisdiction which, at the commencement of this Act, 10 was vested in, or capable of being exercised by, all or any one or more of the Judges of the said Courts, respectively, sitting in Court or Chambers, or elsewhere, or by any Master of the Court of Chancery, when acting as Judge or a Judge, in pursuance of any statute, law, or custom, and all powers given to any such Court, or to any 15 such Judges or Judge, Masters or Master, by any statute; and also all ministerial powers, duties, and authorities, incident to any and every part of the jurisdictions so transferred.

Provided always, that nothing herein contained shall abridge or alter the jurisdiction conferred by any Act or Acts upon any Judge 20 or Judges, Commissioners or Commissioners, of Assize.

22. There shall not be transferred to or vested in the High Court of Justice, by virtue of this Act,

Jurisdiction
not trans-
ferred to
High Court.

(1.) Any appellate jurisdiction of the Court of Appeal in Chancery, or of the same Court sitting as a Court of Appeal from the Court of Probate, the Court for Matrimonial Causes and Matters, the Landed Estates Court, the Court of Bankruptcy, or the High Court of Admiralty :

(2.) Any jurisdiction usually vested in the Lord Chancellor in relation to the custody of the persons and estates of idiots, lunatics, and persons of unsound mind :

(3.) Any jurisdiction vested in the Lord Chancellor in relation to grants of Letters Patent, or the issue of commissions or other writings, to be passed under the Great Seal of Ireland :

(4.) Any jurisdiction exercised by the Lord Chancellor in right of or on behalf of Her Majesty as visitor of any College, or of any charitable or other foundation :

(5.) Any jurisdiction of the Master of the Rolls in relation to records in Dublin or elsewhere in Ireland.

23. The Court of Appeal shall be a Superior Court of Record, and there shall be transferred to and vested in such Court all jurisdiction and powers of the Courts following; (that is to say,) Jurisdiction
transferred
to Court of
Appeal.

A.D. 1877. (1.) All jurisdiction and powers of the Lord Chancellor and of the Court of Appeal in Chancery, in the exercise of his and its appellate jurisdiction, and of the same Court sitting as a Court of Appeal from the Court of Probate, the Court for Matrimonial Causes and Matters, the Landed Estates Court, the High Court of Admiralty, or the Court of Bankruptcy: 5
 (2.) All jurisdiction and powers of the Court of Exchequer Chamber, including its appellate jurisdiction in appeals under the Registration of Voters Acts: 10
 (3.) All jurisdiction and powers of the Court for Land Cases Reserved at Dublin under the provisions of the "Landlord and Tenant, Ireland, Act, 1870."

Appeals
from High
Court.

24. The Court of Appeal shall have jurisdiction and power to hear and determine appeals from any judgment or order, save 15 as herein-after mentioned, of the High Court of Justice, or of any Judges or Judge thereof, subject to the provisions of this Act, and to such rules and orders of Court for regulating the terms and conditions on which such appeals shall be allowed as may be made pursuant to this Act. 20

For all the purposes of and incidental to the hearing and determination of any Appeal within its jurisdiction, and the amendment, execution, and enforcement of any judgment or order made on any such Appeal, and for the purpose of every other authority expressly given to the Court of Appeal by this Act, the said Court of Appeal shall have all the power, authority, and jurisdiction by this Act vested in the High Court of Justice.

Transfer of
pending
business.

25. From and after the commencement of this Act the several jurisdictions which by this Act are transferred to and vested in the High Court of Justice and the Court of Appeal respectively 30 shall cease to be exercised, except by the High Court of Justice and the Court of Appeal respectively, as provided by this Act; and no further or other appointment of any Judge to any Court whose jurisdiction is so transferred shall be made except as provided by this Act: Provided, that in all causes, matters, and 35 proceedings whatsoever which shall have been fully heard, and in which judgment shall not have been given, or having been given shall not have been signed, drawn up, passed, entered, or otherwise perfected at the time appointed for the commencement of this Act, such judgment, decree, rule, or order may be given or made, signed, 40 drawn up, passed, entered, or perfected respectively, after the commencement of this Act, in the name of the same Court, and by

A.D. 1877.

the same Judges and officers, and generally in the same manner, in all respects as if this Act had not passed; and the same shall take effect, to all intents and purposes, as if the same had been duly perfected before the commencement of this Act; and every judgment, decree, rule, or order of any Court whose jurisdiction is hereby transferred to the High Court of Justice or the Court of Appeal, which shall have been duly perfected at any time before the commencement of this Act, may be executed and enforced, and, if necessary, amended or discharged by the High Court of Justice and the Court of Appeal respectively, in the same manner as if it had been a judgment, decree, rule, or order of the said High Court or of the Court of Appeal; and all causes, matters, and proceedings whatsoever, whether civil or criminal, which shall be pending in any of the Courts whose jurisdiction is so transferred as aforesaid at the commencement of this Act, shall be continued as follows; (that is to say,) in the case of proceedings in Error or on Appeal, or of proceedings before the Court of Appeal in Chancery, or in the Court for Land Causes Reserved at Dublin, in and before the Court of Appeal; and, as to all other proceedings, in and before the High Court of Justice. The said Courts respectively shall have the same jurisdiction in relation to all such causes, matters, and proceedings as if the same had been commenced in the High Court of Justice, and continued therein (or in the said Court of Appeal, as the case may be), down to the point at which the transfer takes place; and so far as relates to the form and manner of procedure, such causes, matters, and proceedings, or any of them, may be continued in and before the said Courts respectively, either in the same or the like manner as they would have been continued in the respective Courts from which they shall have been transferred as aforesaid, or according to the ordinary course of the High Court of Justice and the Court of Appeal respectively (so far as the same may be applicable thereto), as the said Courts respectively may think fit to direct.

26. The jurisdiction by this Act transferred to the High Court of Justice and the Court of Appeal respectively shall be exercised (so far as regards procedure and practice) in the manner provided by this Act, or by such Rules and Orders of Court as may be made pursuant to this Act; and where no special provision is contained in this Act or in any such Rules or Orders of Court with reference thereto, it shall be exercised as nearly as may be in the same manner as the same might have been exercised by the

Rules as to
exercise of
jurisdiction.

A.D. 1877. — respective Courts from which such jurisdiction shall have been transferred, or by any of such Courts.

Law and equity to be consistently administered.

27. In every civil cause or matter commenced in the High Court of Justice law and equity shall be administered by the High Court of Justice and the Court of Appeal respectively according to 5 the rules following:

- (1.) If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument, or contract, or against any right, title, or claim whatsoever asserted by 10 any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, which heretofore could only have been given by a Court of Equity, the said Courts respectively, and every Judge thereof, shall give to such plaintiff or petitioner such and the same relief as 15 ought to have been given by the Court of Chancery in a suit or proceeding for the same or the like purpose, properly instituted before the passing of this Act.
- (2.) If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground 20 against any deed, instrument, or contract, or against any right, title, or claim asserted by any plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the said Courts respectively, and every Judge thereof, shall give to every equitable estate, right, or ground of relief so claimed, and to every equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff or petitioner, as the Court of Chancery ought to 25 have given if the same or the like matters had been relied on by way of defence in any suit or proceeding instituted in that Court for the same or the like purpose before the passing of this Act.
- (3.) The said Courts respectively, and every Judge thereof, shall 30 also have power to grant to any defendant in respect of any equitable estate or right, or other matter of equity, and also in respect of any legal estate, right, or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant shall have properly 35 claimed by his pleading, and as the said Courts respon-

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tively, or any Judge thereof, might have granted in any suit, instituted for that purpose by the same defendant against the same plaintiff or petitioner; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to any Rule of Court or any Order of the Court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant.

5 (4.) The said Courts respectively, and every Judge thereof, shall recognise and take notice of all equitable estates, titles, and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the Court of Chancery would have recognised and taken notice of the same in any suit or proceeding duly instituted therein before the passing of this Act.

10 (5.) No cause or proceeding at any time pending in the High Court of Justice, or before the Court of Appeal, shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained, if this Act had not passed, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto: Provided always, that nothing in this Act contained shall disable either of the said Courts from directing a stay of proceedings in any cause or matter pending before it if it shall think fit; and any person, whether a party or not to any such cause or matter, who would have been entitled, if this Act had not passed, to apply to any Court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule, or order, contrary to which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to

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apply to the said Courts respectively, by motion in a summary way, for a stay of proceedings in such cause or matter, either generally, or so far as may be necessary for the purposes of justice; and the Court shall thereupon make such Order as shall be just. 5

(6.) Subject to the aforesaid provisions for giving effect to equitable rights and other matters of equity in manner aforesaid, and to the other express provisions of this Act, the said Courts respectively, and every Judge thereof, shall recognise and give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations, and liabilities existing by the Common Law or by any custom, or created by any Statute, in the same manner as the same would have been recognised and given effect to, if this Act had not passed, by any of the Courts whose jurisdiction is hereby transferred to the said High Court of Justice.

(7.) The High Court of Justice and the Court of Appeal respectively, in the exercise of the jurisdiction vested in them by this Act, in every cause or matter pending before them respectively, shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to them shall seem just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter; so that, as far as possible, all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

*Rules of law
upon certain
points.*

28. And whereas it is expedient to take occasion of the union of the several Courts whose jurisdiction is hereby transferred to the said High Court of Justice to amend and declare the law to be hereafter administered in Ireland as to the matters next herein- 35 after mentioned: Be it enacted as follows:

*Administration
of assets
of insolvent
estates*

(1.) In the administration by the Court of the assets of any person who may die after the commencement of this Act, and whose estate may prove to be insufficient for the payment in full of his debts and liabilities, and in the winding up of 40 any company under the Companies Acts, 1863 and 1867,

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whose assets may prove to be insufficient for the payment of its debts and liabilities and the costs of winding up, the same rules shall prevail and be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt in Ireland; and all persons who in any such case would be entitled to prove for and receive dividends out of the estate of any such deceased person, or out of the assets of any such company, may come in under the decree or order for the administration of such estate, or under the winding up of such company, and make such claims against the same as they may respectively be entitled to by virtue of this Act.

- (2.) No claim of a *cestui que* trust against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations. This provision, however, is not to affect the enactments contained in the tenth section of the Real Property Limitation Act, 1874, when the same shall come into effect.
- (3.) An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right shall expressly appear by the instrument creating such estate.
- (4.) There shall not, after the commencement of this Act, be any merger by operation of law only of any estate, the beneficial interest in which would not be deemed to be merged or extinguished in equity.
- (5.) A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof shall have been given by the mortgagee, may sign and cause to be served notices to quit, determine tenancies, or accept surrenders thereof and sue for such possession, or for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong.

Suits for possession of land by mortgagees.

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Assignment
of debts and
choses in
action.Stipulations
not of the
essence of
contracts.Injunctions
and re-
ceivers.

relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person.

- (6.) Any absolute assignment, by writing under the hand of the assignor (not purporting to be by way of charge only), of any debt or other legal chose in action, of which express notice in writing shall have been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, shall be and be deemed to have been effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this Act had not passed,) to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same, without the concurrence of the assignor: Provided always, that if the debtor, trustee, or other person liable in respect of such debt or chose in action shall have had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he think fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he think fit, pay the same into the High Court of Justice under and in conformity with the provisions of the Acts for the relief of trustees.
- (7.) Stipulations in contracts, as to time or otherwise, which would not before the commencement of this Act have been deemed to be or to have become of the essence of such contracts in a Court of Equity, shall receive in all Courts the same construction and effect as they would have theretofore received in equity.
- (8.) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory Order of the Court in all cases in which it shall appear to the Court to be just or convenient that such Order should be made: and any such Order may be made either unconditionally or upon such terms and conditions as the Court shall think just; and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court shall think fit, whether

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the person against whom such injunction is sought is or
is not in possession under any claim of title or otherwise,
or (if out of possession) does or does not claim a right to
do the act sought to be restrained under any colour of
title; and whether the estates claimed by both or by
either of the parties are legal or equitable.

5 (9.) In any cause or proceeding for damages arising out of a collision between two ships, if both ships shall be found to have been in fault, the rules hitherto in force in the High Court of Admiralty, so far as they have been at variance with the rules in force in the Courts of Common Law, shall prevail.

10 (10.) In questions relating to the custody and education of Infants, infants the Rules of Equity shall prevail.

15 (11.) Generally in all matters not herein-before particularly mentioned, in which there is any conflict or variance between the Rules of Equity and the Rules of the Common Law with reference to the same matter, the Rules of Equity shall prevail.

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PART III.

Sittings and Distribution of Business.

25 29. The division of the legal year into terms shall be abolished so far as relates to the administration of justice; and there shall no longer be terms applicable to any sitting or business of the High Court of Justice, or of the Court of Appeal, or of any Commissioners to whom any jurisdiction may be assigned under this Act; but in all other cases in which, under the law now existing, the terms into which the legal year is divided are used as a measure for determining the time at or within which any act is required to be done, the same may continue to be referred to for the same or the like purpose, unless and until provision is otherwise made by any lawful authority. Subject to Rules of Court, the High Court of Justice, the Court of Appeal, and the Judges thereof respectively, or any such Commissioners as aforesaid, shall have power to sit and act, at any time, and at any place, for the transaction of any part of the business of such Courts respectively, or of such Judges or Commissioners, or for the discharge of any duty which by any Act of Parliament, or otherwise, is required to be discharged during or after term.

30 40. The Lord Lieutenant, by and with the advice of the Privy Council in Ireland, may, before the commencement of this Act, upon

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A.D. 1877. any report or recommendation of the Judges by whose advice the Lord Lieutenant is herein-after authorised to make rules before the commencement of this Act, and after the commencement of this Act upon any report or recommendation of the Council of Judges of the Supreme Court herein-after mentioned, with the consent of the Lord Chancellor, from time to time make, revoke, or modify orders regulating the vacations to be observed by the High Court of Justice and the Court of Appeal, and in the offices of the said Courts respectively; and any Order in Council made pursuant to this section shall, so long as it continues in force, be of the same effect as if it were contained in this Act; and Rules of Court may be made for carrying the same into effect in the same manner as if such Order in Council were part of this Act. In the meantime, and subject thereto, the said vacations shall be fixed in the same manner, and by the same authority, as if this Act had not passed. 15

Sittings in vacation. 31. Provision shall be made by Rules of Court for the hearing, in Dublin, during vacation, by Judges of the High Court of Justice and the Judges of the Court of Appeal respectively, of all such applications as may require to be immediately or promptly heard.

Jurisdiction of Judges of High Court on Circuit. 32. Her Majesty, by commission of assize or by any other commission, either general or special, may assign to any Judge or Judges of the High Court of Justice or other person or persons usually named in commissions of assize, the duty of trying and determining within any place or district specially fixed for that purpose by such commission, any causes or matters, or any questions or issues of fact or of law, or partly of fact and partly of law, in any cause or matter depending in the said High Court, or the exercise of any civil or criminal jurisdiction capable of being exercised by the said High Court; and any commission so granted by Her Majesty shall be of the same validity as if it were enacted in the body of this Act; and any Commissioner or Commissioners appointed in pursuance of this section shall, when engaged in the exercise of any jurisdiction assigned to him or them in pursuance of this Act, be deemed to constitute a Court of the High Court of Justice; and, subject to any restrictions or conditions imposed by 35 Rules of Court and to the power of transfer, any party to any cause or matter involving the trial of a question or issue of fact, or partly of fact and partly of law, may, with the leave of the Judge or Judges to whom or to whose division the cause or matter is assigned, require the question or issue to be tried and determined 40 by a Commissioner or Commissioners as aforesaid, or at sittings to be held in Dublin as herein-after in this Act mentioned, and such question or issue shall be tried and determined accordingly.

A cause or matter not involving any question or issue of fact may be tried and determined in like manner with the consent of all the parties thereto.

33. Subject to Rules of Court, sittings for the trial by jury of causes and questions or issues of fact shall be held in Dublin, and such sittings shall, so far as is reasonably practicable, and subject to vacations, be held continuously throughout the year by as many Judges as the business to be disposed of may render necessary. Any Judge of the High Court of Justice sitting for the trial of causes and issues in Dublin, at any place heretofore accustomed, or to be hereafter determined by Rules of Court, shall be deemed to constitute a Court of the High Court of Justice. Subject to Rules of Court, the plaintiff shall, in the document by which each cause shall be commenced, name the county or place in which he proposes that the cause shall be tried or proceeding shall take place, but the Court or a Judge may, in their or his discretion, direct the same to be tried in any other county or place; and, so far as shall be reasonably consistent with the convenient and speedy discharge of the business, every issue and question of fact to be submitted to a jury shall be tried in the county or place where the cause of action shall have arisen. Any order of a Judge as to the place of trial of any such issue or question may be discharged or varied by a Divisional Court.

Whenever application shall be made for leave to serve any document by which a cause may be commenced upon a defendant resident out of the jurisdiction of the Supreme Court, whether by serving such defendant personally or by substituting service upon another person for him, the Court or Judge to whom such application shall be made shall have regard to the amount or value of the claim or property affected, and to the comparative cost and convenience of proceedings in Ireland, or in the place of the defendant's residence; and no such leave shall be granted without an affidavit stating the particulars necessary for enabling the Court or Judge to exercise a due discretion in the manner aforesaid.

34. For the more convenient despatch of business in the High Court of Justice (but not so as to prevent any Judge from sitting whenever required in any Divisional Court, or for any Judge of a different Division from his own,) there shall be in the said High Court five Divisions consisting of such Judges respectively as herein-after mentioned. Such five Divisions shall respectively include, immediately on the commencement of this Act, the several Judges following; (that is to say,) Divisions of
the High
Court of
Justice.

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(1.) One Division shall consist of The Lord Chancellor, who shall be President thereof, The Master of the Rolls, The Vice-Chancellor and the Judges of the Landed Estates Court; 5
 (2.) One other Division shall consist of The Lord Chief Justice, who shall be President thereof, and the other Judges of the Court of Queen's Bench;
 (3.) One other Division shall consist of The Lord Chief Justice of the Common Pleas, who shall be President thereof, and the other Judges of the Court of Common Pleas; 10
 (4.) One other Division shall consist of The Lord Chief Baron of the Exchequer, who shall be President thereof, and the other Barons of the Court of Exchequer;
 (5.) One other Division shall consist of the Judge of the Courts of Probate and for Matrimonial Causes and Matters; 15

The said five Divisions shall be called respectively the Chancery Division, the Queen's Bench Division, the Common Pleas Division, the Exchequer Division, and the Probate and Matrimonial Division.

The Queen's Bench Division shall have not less than four Judges; the Common Pleas and Exchequer Divisions not less than three each; 20 and the Probate and Matrimonial Division shall have one Judge.

Any vacancy at the time of the commencement of this Act in the office of Judge of any Court the jurisdiction of which is by this Act transferred to the High Court of Justice or the Court of Appeal, if such office be continued by this Act, may be supplied by the 25 appointment of a new Judge in his place in the same manner as if a vacancy in such office had occurred after the commencement of this Act.

Save as by this Act expressly provided, any Judge of any of the said Divisions may be transferred by Her Majesty, under Her Royal Sign Manual, from one to another of the said Divisions, provided, that in the case of an existing Judge, such transfer shall not be without his own consent.

Upon any vacancy happening among the Judges of the said High Court, the Judge appointed to fill such vacancy shall, 35 subject to the provisions of this Act, and to any Rules of Court which may be made pursuant thereto, become a member of the Division to which the Judge whose place has become vacant belonged, and shall succeed to the duties of such Judge.

35. All causes and matters which may be commenced in, or 40 which shall be transferred by this Act to, the High Court of Justice, shall be distributed among the several Divisions and Judges of the

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said High Court, in such manner as may from time to time be determined by any Rules of Court, or Orders of Transfer, to be made under the authority of this Act; and in the meantime, and subject thereto, all such causes and matters shall be assigned to 5 the said Divisions respectively, in the manner herein-after provided. In distributing the general business between the Queen's Bench, Common Pleas, and Exchequer Divisions, regard shall be had to any special jurisdiction vested in them respectively, so as to apportion the business fairly between them.

10 36. There shall be assigned (subject as aforesaid) to the Chancery Division of the said Court : Assignment
of certain
business to
particular
Divisions of
High Court,
subject to
Rules.

- (1.) All causes and matters pending in the Court of Chancery at the commencement of this Act :
- (2.) All causes and matters to be commenced after the commencement of this Act, under any Act of Parliament by which exclusive jurisdiction, in respect to such causes or matters, has been given to the Court of Chancery, or to any Judge or Judge thereof respectively :
- (3.) All matters pending in the Landed Estates Court at the commencement of this Act :
- (4.) All matters which would have been within the exclusive cognizance of the Landed Estates Court, or of any Judge or Judges thereof, if this Act had not passed :
- (5.) All causes and matters for any of the following purposes :

The administration of the estates of deceased persons ;
The dissolution of partnerships or the taking of partnership or other accounts ;
The redemption or foreclosure of mortgages ;
The raising of portions, or other charges on land ;
30 The sale and distribution of the proceeds of property subject to any lien or charge ;
The execution of trusts, charitable or private ;
The rectification, or setting aside, or cancellation of deeds or other written instruments ;
35 The specific performance of contracts between vendors and purchasers of land, including contracts for leases, and also the specific performance of any other contracts in respect of which a Court of Equity decrees performance ;
40 The partition or sale of real estates ;
The wardship of infants and the care of infants estates.

A.D. 1877. — All causes and matters included under the heads above numbered (3) and (4) shall be assigned to the Land Judges of the Chancery Division.

There shall be assigned (subject as aforesaid) to the Queen's Bench Division of the said Court: 5

- (1.) All causes and matters, civil and criminal, pending in the Court of Queen's Bench at the commencement of this Act:
- (2.) All causes and matters, civil and criminal, which would have been within the exclusive cognizance of the Court of Queen's Bench in the exercise of its original jurisdiction 10 if this Act had not passed.

There shall be assigned (subject as aforesaid) to the Common Pleas Division of the said Court:

- (1.) All causes and matters pending in the Court of Common Pleas at the commencement of this Act: 15
- (2.) All causes and matters which would have been within the exclusive cognizance of the Court of Common Pleas if this Act had not passed.

Provided always, that if and whenever the said Division shall be engaged in the hearing or despatch of any business relating to a 20 parliamentary election which would have been within the exclusive cognizance of the Court of Common Pleas, but only so long as there shall be but three Judges of the Common Pleas Division, the junior Pleas Judge for the time being of the Queen's Bench Division shall be empowered and bound to attend and take part in the 25 hearing and despatch by the Common Pleas Division of such business, and shall, for all the purposes of such business, be a fourth member of the Common Pleas Division.

There shall be assigned (subject as aforesaid) to the Exchequer Division of the said Court: 30

- (1.) All causes and matters pending in the Court of Exchequer at the commencement of this Act:
- (2.) All causes and matters which would have been within the exclusive cognizance of the Court of Exchequer, either as a Court of Revenue or as a Common Law Court, if this 35 Act had not passed.

There shall be assigned (subject as aforesaid) to the Probate and Matrimonial Division of the said Court:

- (1.) All causes and matters pending in the Court of Probate, or in the Court for Matrimonial Causes and Matters, at the 40 commencement of this Act:
- (2.) All causes and matters which would have been within the exclusive cognizance of the Court of Probate, or of the

Court for Matrimonial Causes and Matters, if this Act had A.D. 1877.
not passed.

37. Subject to any Rules of Court, and to the provisions hereinbefore contained, and to the power of transfer, every person by whom any cause or matter may be commenced in the said High Court of Justice shall assign such cause or matter to one of the Divisions of the said High Court as he may think fit, by marking the document by which the same is commenced with the name of such Division, and giving notice thereof to the proper officer of the Court: Provided, that

Provisions as
to option for
any Plaintiff
(subject to
Rules) to
choose in
what Division
he will
use.

- (1.) All interlocutory and other steps and proceedings in or before the said High Court, in any cause or matter subsequent to the commencement thereof, shall be taken (subject to any Rules of Court and to the power of transfer) in the Division of the said High Court to which such cause or matter is for the time being attached; and
- (2.) If any plaintiff or petitioner shall at any time assign his cause or matter to any Division of the said High Court to which, according to the Rules of Court or the provisions herein-before contained, the same ought not to be assigned, the Court, or any Judge of such Division, upon being informed thereof, may, on a summary application, at any stage of the cause or matter, direct the same to be transferred to the Division of the said Court to which, according to such rules or provisions, the same ought to have been assigned, or he may, if he think it expedient so to do, retain the same in the Division in which the same was commenced; and all steps and proceedings whatsoever taken by the plaintiff or petitioner, or by any other party in any such cause or matter, and all orders made therein by the Court or any Judge thereof before any such transfer, shall be valid and effectual to all intents and purposes in the same manner as if the same respectively had been taken and made in the proper Division of the said Court to which such cause or matter ought to have been assigned; and
- (3.) Every testamentary or matrimonial proceeding shall be commenced in the Probate and Matrimonial Division, and addressed to the Judge of that Division for the time being:
- (4.) Every proceeding in any other matter within the exclusive jurisdiction of the Landed Estates Court before the passing

A.D. 1877.

or under the provisions of this Act shall be commenced in the Chancery Division and addressed to the Land Judges of that Division.

38. Any cause or matter may at any time, and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by such authority and in such manner as Rules of Court may direct, from one Division or Judge of the High Court of Justice to any other Division or Judge thereof, or may by the like authority be retained in the Division in which the same was commenced, although such may not be the proper Division to which the same cause or matter ought, in the first instance, to have been assigned.

Directions as to procedure in Land Estates Courts.

39. Every application to appoint a receiver over land, when such land is the subject of a proceeding before the Land Judges, shall be made to the Land Judge to whom such proceeding is attached. In any proceeding before a Land Judge, the Judge shall decide all controversies and questions as to the validity or effect of any deed, instrument, or contract affecting land or any charge or incumbrance thereon, or as to the construction or effect of any devise or bequest of any estate or interest in or of any charge or incumbrance upon land, which it may be necessary to decide for the purpose of such proceeding, including the validity or effect of any lease or instrument of tenancy affecting land requisite to be ascertained for the due settlement of a rental; and shall take accounts of and administer the assets of any deceased person whenever it may be necessary for a distribution of the purchase money of any land sold before him, provided there shall not be then depending before any of the Judges of the High Court a suit for the administration of such assets; and it shall not be necessary to institute any other cause or matter for any of such purposes. The procedure in such cases shall be settled by Rules of Court, to be made by the Lord Chancellor, with the Land Judges, or either of them, and any person whether already a party to the proceeding or not, who shall have been duly served with notice in writing pursuant to any Rule of Court or order of the Court shall thenceforth be deemed a party to such cause or matter with the same rights in respect of his claim or defence as if he had duly sued or been sued in a suit instituted for the purpose of deciding any such question or controversy.

Sittings in Dublin and on Circuit.

40. Subject to any arrangements which may be from time to time made by agreement between the Judges of the said High Court, the sittings for trials by jury in Dublin, and the sittings of Judges of the said High Court under Commissions of Assize,

Oyer and Terminer, and Gaol Delivery, shall be held by or before Judges of the Queen's Bench, Common Pleas, or Exchequer Division of the said High Court; provided that it shall be lawful for Her Majesty, if she shall think fit, to include in any such Commission any Ordinary Judge of the Court of Appeal, or any Judge of the Chancery Division appointed after the first of January one thousand eight hundred and seventy-five, or any of Her Majesty's Serjeants-at-Law, or Counsel learned in the law, who, for the purposes of such Commission, shall have all the power, authority, and jurisdiction of a Judge of the said High Court: And any person not a Judge of the High Court who shall be sent as a Commissary shall be paid the same amount and in the same manner as such person would have been paid if before the passing of this Act he had been sent as a Commissary, and if he shall be sent in place of a Judge, 15 who, under the provisions of this Act, was bound to go circuit without payment in respect thereof in addition to his salary, then one hundred and fifty pounds shall be deducted from the salary of such Judge: Provided also, that, any law or custom to the contrary, it shall not be necessary in any commission for the trial of crimes 20 and offences in the county of the city and county of Dublin to nominate more than one Judge to preside, nor for more than one Judge to preside under any commission existing at the commencement of this Act.

41. The Judges to be placed on the rota for the trial of election petitions for Ireland in each year, under the provisions of the "Parliamentary Elections Act, 1868," shall be selected out of the Judges of the Queen's Bench, Common Pleas, and Exchequer Divisions of the High Court of Justice in such manner as may be provided by any Rules of Court to be made for that purpose; 30 and in the meantime, and subject thereto, shall be selected out of the Judges of the said Queen's Bench, Common Pleas, and Exchequer Divisions of the said High Court, by the Judges of such Divisions respectively, as if such Divisions had been named instead of the Courts of Queen's Bench, Common Pleas, and Exchequer respectively, in such last-mentioned Act: Provided that the Judges who, at the commencement of this Act, shall be the Judges upon the rota for the trial of such petitions during the then current year shall continue upon such rota for the same period, and in the same manner as if this Act had not passed.

Rota of
Judges for
election
petitions.

40 42. Any Judge of the High Court of Justice may, subject to any Rules of Court, exercise in Court or in Chambers all or any part of the jurisdiction by this Act vested in the said High Court, in [66.] Powers of
one or more
Judges not
constituting

A.D. 1877. all such causes and matters, and in all such proceedings in any causes or matters, as before the passing of this Act might have been heard in Court or in Chambers respectively, by a single Judge of any of the Courts whose jurisdiction is hereby transferred to the said High Court, or as may be directed or authorised to be so heard by any Rules of Court to be hereafter made. In all such cases, any Judge sitting in Court shall be deemed to constitute a Court.

Divisional Courts of the High Court of Justice.

43. Such causes and matters as are not proper to be heard by a single Judge shall be heard by Divisional Courts of the said High Court of Justice, which shall for that purpose exercise all or any part of the jurisdiction of the said High Court. Any number of such Divisional Courts may sit at the same time. A Divisional Court of the said High Court of Justice shall be constituted by two or more of the Judges thereof. Every Judge of the said High Court shall be qualified and empowered to sit in any of such Divisional Courts. The President of every such Divisional Court of the High Court of Justice shall be the senior Judge of those present, according to the order of their precedence under this Act.

Divisional Courts for business of Queen's Bench, Common Pleas, and Exchequer Divisions.

44. Subject to any Rules of Court, and in the meantime until such Rules shall be made, all such business belonging to the Queen's Bench, Common Pleas, and Exchequer Divisions respectively of the said High Court, as, according to the practice now existing in the Superior Courts of Common Law in Ireland, would have been proper to be transacted or disposed of by the Court sitting in Banco, if this Act had not passed, may be transacted and disposed of by Divisional Courts, which shall, as far as may be found practicable and convenient, include one or more Judge or Judges attached to the particular Division of the said Court to which the cause or matter out of which such business arises has been assigned; and it shall be the duty of every Judge of such last-mentioned Division, and also of every other Judge of the High Court who shall not for the time being be occupied in the transaction of any business specially assigned to him, or in the business of any other Divisional Court, to take part, if required, in the sittings of such Divisional Courts as may from time to time be necessary for the transaction of the business assigned to the said Queen's Bench, Common Pleas, and Exchequer Divisions respectively; and all such arrangements as may be necessary or proper for that purpose, or for constituting or holding any Divisional Courts of the said High Court of Justice for any other purpose authorised by this Act, and also for the proper transaction of that part of the business of the said Queen's

A.D. 1877

Bench, Common Pleas, and Exchequer Divisions respectively, which ought to be transacted by one or more Judges not sitting in a Divisional Court, shall be made from time to time under the direction and superintendence of the Judges of the said High Court of Justice, and in case of difference among them, in such manner as the majority of the said Judges with the concurrence of either the Lord Chancellor or the Lord Chief Justice shall determine.

45. Subject to any Rules of Court, and in the meantime until such Rules shall be made, all business arising out of any cause or matter assigned to the Chancery Division of the said High Court, or out of any testamentary or matrimonial cause or proceeding assigned to the Probate and Matrimonial Division, shall be transacted and disposed of in the first instance by one Judge only, as has been heretofore accustomed in the Court of Chancery, the Court of Probate, and the Court for Matrimonial Causes and Matters respectively; and every cause or matter which, at the commencement of this Act, may be depending in the Court of Chancery, the Court of Probate, the Court for Matrimonial Causes and Matters, and the Landed Estates Court respectively, shall (subject to the power of transfer) be assigned to the same Judge in or to whose Court the same may have been depending or attached at the commencement of this Act; and every cause or matter which, after the commencement of this Act may be commenced in the Chancery Division of the said High Court, shall be assigned to one of the Judges thereof, in the same manner as heretofore: Provided that (subject to any Rules of Court, and to the power of transfer) all causes and matters which, if this Act had not passed, would have been within the exclusive cognizance of the Court of Probate or the Court for Matrimonial Causes and Matters, shall be assigned to the Judge of the Probate and Matrimonial Division for the time being, and all matters within the exclusive jurisdiction of the Landed Estates Court shall be assigned to the Land Judges.

46. Subject to any Rules of Court, any Judge of the said High Court, sitting in the exercise of its jurisdiction elsewhere than in a Divisional Court, may reserve any case, or any point in a case, for the consideration of a Divisional Court, or of the Court of Appeal, or may direct any case, or point in a case, to be argued before any such Court: and any such Court shall have power to hear and determine any such case or point so reserved or so directed to be argued:

Provided that nothing in this Act, or in any rule made under its provisions, shall take away or prejudice the right of any party to

[68.]

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Distribution
of business
among the
Judges of the
Chancery
and Probate
Divisions of
the High
Court.

Cases and
points may
be reserved
for or di-
rected to be
argued
before Di-
visional Courts
or Courts of
Appeal.

A.D. 1877. any action to have the issues for trial by jury submitted and left by the judge to the jury before whom the same shall come for trial, with a proper and complete direction to the jury upon the law and as to the evidence applicable to such issues: Provided also, that such right may be enforced by motion in the High Court of Justice, or by motion in the Court of Appeal founded upon an exception entered upon or annexed to the record.

Laws cases reserved.

47. From and after the commencement of this Act, any person aggrieved by any decision or order upon any question of law, made by any judge or judges of assize under the Landlord and Tenant (Ireland) Act, 1870, or, in the case of the county or the county of the city of Dublin, made by the judges mentioned in that Act in that behalf, may require the judge or judges making such decision or order to reserve such question of law by way of case stated for the consideration of the Court of Appeal; and the same shall thereupon be reserved accordingly in such manner and form as shall be prescribed by rules made in pursuance of the thirty-first section of the said Act.

Provision for Queen's cases reserved.

48. The jurisdiction and authorities in relation to questions of law arising in criminal trials which are now vested in the Justices of either Bench and the Barons of the Exchequer by the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter seventy-eight, intituled "An Act for the further amendment of the administration of the Criminal Law," or any Act amending the same, shall and may be exercised after the commencement of this Act by the Judges of the High Court of Justice, or five of them at the least, of whom the Lord Chief Justice, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron of the Exchequer, or one of such Chiefs at least, shall be part. The determination of any such question by the Judges of the said High Court in manner aforesaid shall be final and without appeal; and no appeal shall lie from any judgment of the said High Court in any criminal cause or matter, save for some error of law apparent upon the record, as to which no question shall have been reserved for the consideration of the said Judges under the said Act of the eleventh and twelfth years of Her Majesty's reign.

Motions for new trials to be heard by District Courts.

49. In proceedings in the Queen's Bench, Common Pleas, and Exchequer Divisions respectively, every motion for a new trial of any cause or matter on which a verdict has been found by a jury, or by a Judge without a jury, and every motion in arrest of judgment, or to enter judgment non obstante veredicto, or to enter a verdict

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for plaintiff or defendant, or to enter a nonsuit, or to reduce damages, shall be heard before a Divisional Court; and no appeal shall lie from any judgment founded upon and applying any verdict unless a motion has been made or other proceeding taken before a Divisional Court to set aside or reverse such verdict, or the judgment, if any, founded thereon, in which case an appeal shall lie to the Court of Appeal from the decision of the Divisional Court upon such motion or other proceeding.

50. No order made by the High Court of Justice or any Judge What orders
shall not be
subject to
appeal. 10 thereof, by the consent of parties, or as to costs only, being costs which by law are left to the discretion of the Court, shall be subject to any appeal, unless by leave of the Court or Judge making such order.

51. Subject to the provisions of this Act and of Rules of Court, Costs. 15 the costs of and incident to every proceeding in the High Court shall be in the discretion of the Court, but nothing herein contained shall deprive a trustee, mortgagee, or other person of any right to costs out of a particular estate or fund to which he would be entitled according to the Rules hitherto acted on in Courts of Equity: Provided, that the costs of every action, question, and issue tried by a jury shall follow the event, unless, upon application made, the Judge at the trial or the Court shall for good cause shown otherwise order, and any order of a Judge as to such costs may be discharged or varied by a Divisional Court.

52. Every order made by a Judge of the said High Court in Chambers, except orders made in the exercise of such discretion as to costs, may be set aside or discharged, upon notice by any Divisional Court, or by the Judge sitting in Court, according to the course and practice of the Division of the High Court to which the particular cause or matter in which such order is made may be assigned; and no appeal shall lie from any such order, to set aside or discharge which no such motion has been made, unless by special leave of the Judge by whom such order was made, or of the Court of Appeal.

53. In case in the Chancery Division of the High Court of Justice from the amount of business, or in any Division of the said Court from the absence of a Judge or Judges through illness, it shall be found expedient that some or one of the Ordinary Judges of the Court of Appeal appointed after the passing of this Act should assist in transacting the business of such Division, it shall be lawful for them and him so to do; and while so sitting and acting such Judge or Judges shall have all the power, jurisdiction, and authority of a Judge or Judges of the said High Court of Justice.

Provision for
absence or
vacancy in
the office of
a Judge.

A.D. 1877.

Power of a single Judge in Court of Appeal.

54. Every appeal to the Court of Appeal shall, where the subject-matter of the appeal is a final order, decree, or judgment, be heard before not less than *three* Judges of the said Court sitting together, and shall, when the subject-matter of the appeal is an interlocutory order, decree, or judgment, be heard before not less than *two* Judges of the said Court sitting together.

Any doubt which may arise as to what decrees, orders, or judgments are final, and what are interlocutory, shall be determined by the Court of Appeal.

Any direction incidental to a proceeding in appeal, not involving the hearing of such decrees, judgments, or orders, final or interlocutory, as aforesaid, may be given by a single Judge of the Court of Appeal, and a single Judge of the Court of Appeal may at any time during vacation make any interim order to prevent prejudice to the claims of any parties pending an appeal as he may think fit; but every such order made by a single Judge may be discharged or varied by the Court of Appeal.

Composition of Court of Appeal when hearing Appeals.

55. No Judge of the said Court of Appeal shall sit as a Judge on the hearing of an appeal from any judgment or order made in a cause or matter heard by himself either sitting alone or with other Judges.

Arrangements for business of Court of Appeal.

56. All such arrangements as may be necessary or proper for the transaction of the business from time to time pending before the Court of Appeal shall be made by and under the direction of the President and the other Judges of the said Court of Appeal.

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PART IV.

Trial and Procedure.

Reference and assumpsit.

57. Subject to any Rules of Court and to such right as may now exist to have particular cases submitted to the verdict of a jury, the High Court or the Court of Appeal may, in any civil cause or matter as aforesaid in which it may think expedient so to do, call in the aid of one or more assessors specially qualified, and try and hear such cause or matter wholly or partially with the assistance of such assessors. The remuneration, if any, to be paid to such special Referees or assessors shall be determined by the Court.

35

Powers to direct trials before Referees.

58. In any cause or matter (other than a criminal proceeding by the Crown) before the said High Court in which all parties interested who are under no disability consent thereto, the Court or a Judge may at any time, on such terms as may be thought proper, order any question or issue of fact or any question of account arising therein to be tried either before a special Referee to be agreed on between the parties, or in default of agreement

A.D. 1874.

to be appointed by the Court or Judge. All such trials before Referees shall be conducted in such manner as may be prescribed by Rules of Court, and subject thereto in such manner as the Court or Judge ordering the same shall direct.

5 59. In all cases of any reference to or trial by Referees under this Act the Referees shall be deemed to be officers of the Court, and shall have such authority for the purpose of such reference or trial as shall be prescribed by Rules of Court or (subject to such Rules) by the Court or Judge ordering such reference or trial; and 10 the report of any Referee upon any question of fact on any such trial shall (unless set aside by the Court) be equivalent to the verdict of a jury.

60. With respect to all such proceedings before Referees and their Reports, the Court or such Judge as aforesaid shall have, in addition to any other powers, the same or the like powers as are given to any Court whose jurisdiction is hereby transferred to the said High Court, with respect to references to arbitration and proceedings before arbitrators and their awards respectively, by the Common Law Procedure Amendment Act (Ireland), 1856.

20 61. The provisions contained in the fifth and sixth sections of the Common Law Procedure Amendment Act, Ireland, 1870, shall apply to all actions, including ejectments, commenced or pending in the said High Court of Justice in which any relief is sought which can be given in a Civil Bill Court.

ss & 34 Vict.
c. 100. s. 5
and 6 to
extend to
actions in
High Court.

25 62. The Lord Lieutenant may at any time after the passing and before the commencement of this Act, by Order in Council, made upon the recommendation of the Lord Chancellor, the Lord Justice of Appeal, the Chief Justice, the Chief Justice of the Common Pleas, and the Chief Baron, or any three of them, and of the other 30 Judges of the several Courts intended to be united and consolidated by this Act, or of a majority of such other Judges, make rules, to be styled Rules of Court, for carrying this Act into effect, and in particular for all or any of the following matters; that is to say,

Provision as
to making of
Rules of
Court before
or after the
commencement
of the
Act.

- (1.) For regulating the sittings of the High Court of Justice and the Court of Appeal, and of any Divisional or other Courts thereof respectively, and of the Judges of the said High Court sitting in Chambers; and
- (2.) For regulating the pleading, practice, and procedure in the High Court of Justice and Court of Appeal, including all matters connected with writs, forms of actions, parties to actions, evidence, and mode and place of trial; and
- (3.) Generally, for regulating any matters relating to the practice and procedure of the said Courts respectively, or to the

A.D. 1877.

duties of the officers thereof, or of the Supreme Court, or to the costs of proceedings therein (including the costs to be allowed to solicitors of the Supreme Court in respect of business transacted in or before any of such Courts or the offices thereof,) or relating to the conduct of civil or criminal business coming within the cognizance of the said Courts respectively, for which provision is not expressly made by this Act; and

(4) For prescribing, regulating, or doing anything which under this Act may be prescribed, regulated, or done by Rules of Court. 10

From and after the commencement of this Act, the Lord Lieutenant may at any time, with the concurrence of a majority of the Judges of the Supreme Court present at any meeting for that purpose held (of which majority the Lord Chancellor shall be one), by Order in Council alter and annul any Rules of Court for the time being in force, and have and exercise the same power of making Rules of Court as is by this section vested in the Lord Lieutenant on the recommendation of the Judges herein-before specified before the commencement of this Act. 15

All Rules of Court made in pursuance of this part of this Act shall be laid before each House of Parliament within such time and shall be subject to be annulled in such manner as is in this Act provided. 20

All Rules of Court made in pursuance of this part of this Act, if made before the commencement of this Act, shall from and after the commencement of this Act, and if made after the commencement of this Act, shall from and after the time when they come into operation, regulate all matters to which they extend, until annulled or altered in pursuance of this Act. 25

The powers to make Rules of Court contained in this section are not to affect special provisions in this Act enabling rules to be made in particular instances. 30

CIRCUITS AND
ASSIZES

63. The Lord Lieutenant, may from time to time, after the commencement of this Act, by Order in Council, rearrange the circuits or reduce their number, and direct what counties and towns shall be upon each circuit. 35

WINTER
ASSIZES

64. "The Winter Assizes Act, 1876," (excepting section 5,) shall from and after the passing of this Act extend to Ireland, and all the powers thereby vested as to England in Her Majesty shall as to Ireland be vested in and may be exercised by the Lord Lieutenant, by and with the advice and consent of the Privy Council in Ireland, 40 and every order of the Lord Lieutenant in Council made in pursuance of the said Act, and published in the Dublin Gazette, shall have the like effect in Ireland as an order in Council made in pursuance of the said Act would have in England, and provision may

be made by such order for the hearing and despatch at any winter assizes, as well of criminal business as also of such civil business as may be by such order prescribed.

A.D. 1837.

65. All Rules and Orders of Court which shall be in force in the Court of Probate, and the Court for Matrimonial Causes and Matters respectively, at the time of the commencement of this Act, except so far as they shall by Rules of Court be expressly varied, shall remain and be in force in the High Court of Justice and in the Court of Appeal respectively in the same manner in all respects as if they had been Rules of Court under this Act.

66. Subject to any Rules of Court to be made under and by virtue of this Act, the practice and procedure in all criminal causes and matters whatsoever in the High Court of Justice, including the practice and procedure with respect to Crown Cases Reserved, shall be the same as the practice and procedure in similar causes and matters before the passing of this Act.

In cases on the Crown side of the Queen's Bench Division a writ of error to the House of Lords may issue in like manner and subject to like conditions and permission and in respect of like proceedings as such writ would have issued from the Court of Queen's Bench, if this Act had not been passed.

67. Nothing in this Act, or in any Rules of Court to be made by virtue hereof, save so far as relates to the power of the Court for special reasons to allow depositions or affidavits to be read, shall affect the mode of giving evidence by the oral examination of witnesses in trials by jury, or the rules of evidence, or the law relating to juriesmen or juries.

68. Save as by this Act, or by any Rules of Court may be otherwise provided, all forms and methods of procedure which at the commencement of this Act were in force in any of the Courts whose jurisdiction is hereby transferred to the said High Court, and to the said Court of Appeal, respectively, under or by virtue of any law, custom, General Orders, or Rules whatsoever, and which are not inconsistent with this Act or any Rules of Court, may continue to be used and practised in the said High Court of Justice, and the said Court of Appeal, respectively, in such and the like cases, and for such and the like purposes, as those to which they would have been applicable in the respective Courts of which the jurisdiction is so transferred, if this Act had not passed.

69. Where any provisions in respect of the practice or procedure of any courts, the jurisdiction of which is transferred by this Act

Additional powers as to regulation.

A.D. 1877.
—
 of practice
 and procedure
 by Rules
 of Court.

to the High Court of Justice or the Court of Appeal are contained in any Act of Parliament, Rules of Court may be made for modifying such provisions to any extent that may be deemed necessary for adapting the same to the High Court of Justice and the Court of Appeal.

Any provisions relating to the payment, transfer, or deposit into, or in, or out of any court of any money or property, or to the dealing therewith, shall, for the purposes of this section, be deemed to be provisions relating to practice and procedure.

Orders and
 Rules to be
 laid before
 Parliament,
 and may be
 assented to
 address from
 either House

70. Every General Rule, Order in Council, Rule of Court, and General Order required by this Act to be laid before each House of Parliament, shall be so laid within *forty* days next after it is made, if Parliament is then sitting, or if not, within *forty* days after the commencement of the then next ensuing session; and if no address is presented to Her Majesty by either House of Parliament, within the next subsequent *forty* days on which the said House shall have sat, praying that any such Rule or Order may be annulled, Her Majesty may thereupon by Order in Council annul the same; and the Rule or Order so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same.

Councils of
 Judges to
 consider
 procedure and
 administration of
 justice.

71. A Council of the Judges of the Supreme Court, of which due notice shall be given to all the said Judges, shall assemble once at least in every year, on such day or days as shall be fixed by the Lord Chancellor, with the concurrence of the Lord Chief Justice, for the purpose of considering the operation of this Act and of the Rules of Court for the time being in force, and also the working of the several offices and the arrangements relative to the duties of the officers of the said Courts respectively, and of inquiring and examining into any defects which may appear to exist in the system of procedure or the administration of the law in the High Court of Justice or the said Court of Appeal, or in any other Court from which any appeal lies to the said High Court or any Judge thereof, or to the Court of Appeal: And they shall report annually to the Chief Secretary to the Lord Lieutenant of Ireland what (if any) amendments or alterations it would in their judgment be expedient to make in this Act, or otherwise relating to the administration of justice, and what other provisions (if any) which cannot be carried into effect without the authority of Parliament it would be expedient to make for the better administration of justice. An Extraordinary Council of the said Judges may also at any time be convened by the Lord Chancellor.

A.D. 1877.

72. All Acts of Parliament relating to the several Courts and Judges, whose jurisdiction is hereby transferred to the High Court of Justice and the Court of Appeal respectively, or wherein any of such Courts or Judges are mentioned or referred to, shall be construed and take effect, so far as relates to anything done or to be done after the commencement of this Act, as if the High Court of Justice or the Court of Appeal, and the Judges thereof, respectively, as the case may be, had been named therein instead of such Courts or Judges whose jurisdiction is so transferred respectively; and in all cases not hereby expressly provided for in which, under any such Act, the concurrence or the advice or consent of the Judge or any Judges, or of any number of the Judges, of any one or more of the Courts whose jurisdiction is hereby transferred to the High Court of Justice is made necessary to the exercise of any power or authority capable of being exercised after the commencement of this Act, such power or authority may be exercised by and with the concurrence, advice, or consent of the same or a like number of Judges of the High Court of Justice: Provided always, that any provisions of such Acts inconsistent with the provisions of this Act shall be and the same are hereby repealed.

Acts of Parliament relating to former Courts to be read as applying to Courts under this Act.

PART V.

Officers and Officers.

73. The Receiver Master in Chancery, and the Masters in the Transfer Courts of Common Law, the Clerk of the Crown and Hampsire, the Clerk of the Crown of the Court of Queen's Bench, and the Taxing Masters, Secretaries, Registrars, Clerk of Records and Writs, Examiner in the Court of Chancery, Registrar of the consolidated nisi prius Court, Clerks of the Rolls and Pleadings and Record Assistants, Chief and other Clerks, Commissioners to take oaths or affidavits, or the acknowledgment of deeds by married women, Stamp Distributors, Messengers, Court and Office Keepers, Hall Porters, Tiptainers, Criers, and other officers and assistants at the time of the commencement of this Act attached to any Court or Judge whose jurisdiction is hereby transferred to the High Court, or to the Court of Appeal, and also all Registrars, Clerks, officers, and other persons at the time of the commencement of this Act engaged in the preparation of commissions or writs, or in the registration of judgments or any other ministerial duties in aid of or connected with any Court, the jurisdiction of which is hereby transferred to the said Courts respectively, also all persons who were officers of or

A.D. 1877. connected with the late Masters of the Court of Chancery, or their offices, shall, from and after the commencement of this Act, be attached to the Supreme Court of Judicature consisting of the High Court of Justice and the Court of Appeal.

The officers so attached shall have the same rank and hold their 5 offices by the same tenure and upon the same terms and conditions and receive the same salaries, and, if entitled to pensions, be entitled to the same pensions, as if this Act had not passed; any such officer who is removable by the Court to which he is now attached shall be removable by the Court or Division to which he shall be 10 attached under this Act, or by the majority of the Judges thereof, for the same causes as heretofore.

Provided, however, that the existing Third Assistant in the Writ and Seal Office and the existing Clerk of Errors shall not be entitled to the benefit of this provision, and shall cease to be officers of the 15 High Court upon an order of the Lord Chancellor to that effect without being entitled to compensation.

The existing Registrars, Assistant Registrars, and Clerks to the Registrars in the Chancery Registrars office, and also the existing officers of the three law courts, shall, so long as they continue 20 officers of the Courts, retain any right of succession secured to them by Act of Parliament, so as to entitle those who are thus secured in their respective offices, or in any substituted offices, to the succession to appointments with similar or analogous duties and with equivalent salaries.

All officers who at the time of the commencement of this Act shall be attached to the Court of Chancery, or any Judge or Master thereof, shall be attached to the Chancery Division of the High Court of Justice; all officers who at the time of the commencement of this Act shall be attached to the Landed Estates Court, or the 30 Judges thereof, shall be attached to the Land Judges of the Chancery Division; all officers who at the time of the commencement of this Act shall be attached to the Court of Queen's Bench shall be attached to the Queen's Bench Division of the said High Court; and all officers who at the time of the commencement of this Act shall be 35 attached to the Court of Common Pleas shall be attached to the Common Pleas Division of the said High Court; and all officers who at the time of the commencement of this Act shall be attached to the Court of Exchequer shall be attached to the Exchequer Division of the said High Court; and all officers who at the time of 40 the commencement of this Act shall be attached to the Court of Probate and the Court for Matrimonial Causes and Matters shall

be attached to the Probate and Matrimonial Division of the said A.D. 1871.
High Court.

All clerks and other officers attached to any existing Judges who under the provisions of this Act shall become a Judge of the High Court of Justice or of the Court of Appeal shall continue attached to such Judge, and shall perform the same duties as those which they have hitherto performed, or duties analogous thereto, and shall have the same rank and hold their offices by the same tenure and upon the same terms and conditions and receive the same salaries, 10 and, if entitled to pensions, be entitled to the same pensions, as if this Act had not passed.

The distribution of business among the officers so attached to the said respective Divisions, the duties to be discharged by them, and any re-arrangement connected therewith shall be regulated, controlled, and directed, in the case of the Chancery Division as to the Landed Estates Court officers by the Lord Chancellor with the concurrence of the Land Judges, or one of them, and as to all other officers of the said Chancery Division by the Lord Chancellor, the Master of the Rolls, and the Vice Chancellor, or any two of them, 20 of whom the Lord Chancellor shall be one; in the case of the officers of the Courts of Probate and for Matrimonial Causes and Matters by the Lord Chancellor and the Judge of the Probate and Matrimonial Division; and in the case of the officers of the Queen's Bench, Common Pleas, and Exchequer Divisions respectively, by the Lord Chancellor, the Chief Justice, the Chief Justice of the Common Pleas, and the Chief Baron, or any two of them, of whom the Lord Chancellor shall be one.

If the services of any existing officer attached in manner aforesaid to a Division shall not be required in the Division to which he is attached, it shall be lawful for the Lord Chancellor, with the concurrence of the other Presidents of Divisions, or one of them, by order, to transfer such officer to some other office of the High Court of Justice, or some Division thereof, subject however to the conditions herein-after imposed as to the nature of the duties he is to 30 perform.

The following offices shall at dates to be fixed by the Lord Chancellor, with the concurrence of the Treasury, but within two years from the commencement of this Act, be consolidated in manner following: the Taxing Offices of the Common Law Courts and 40 of the Landed Estates Court with the Taxing Office of the Court of Chancery, so as to have but one Taxing Office for the Supreme Court, and the several Courts and Divisions thereof; the Office of Accountant in the Landed Estates Court with the Office of

A.D. 1877. Accountant-General in the Court of Chancery, so as to have but one accounting department for the Supreme Court and all courts and divisions thereof; the Writ and Seal Office of the Law Courts with the Record and Writ Office in Chancery, so as to have but one office out of which all writs and summonses to commence proceedings in the High Court or any Division thereof may issue, and in which the records of all proceedings therein may be preserved; and the Notice Office of the Landed Estates Court with the Notice Office of the Court of Chancery.

Subject to the provisions in this Act as to tenure and salary of 10 existing officers, and as to the discharge by them of analogous duties only, the Lord Chancellor, the Chief Justice, the Chief Justice of the Common Pleas, and the Chief Baron, or any two of them, of whom the Lord Chancellor shall be one, with the concurrence of the Treasury, may, by order, consolidate any other offices of the courts 15 whose jurisdiction is hereby transferred to the Supreme Court in any cases where the union of the existing courts into one Supreme Court shall render it no longer necessary or expedient to retain such offices separate.

The distribution of business in the offices so united and consolidated, and the duties to be discharged by the officers thereof, shall be regulated and directed by the orders and under the control of the Lord Chancellor, the Chief Justice, the Chief Justice of the Common Pleas, and the Chief Baron, or any two of them, of whom the Lord Chancellor shall be one. 20

All other officers and persons (if any) hereby attached to the Supreme Court, for the regulation of whose duties provision has not been herein-before made, shall have their duties defined by the Lord Chancellor. 25

An existing officer hereby attached to the Supreme Court or any Court or Division thereof shall not be required to discharge any duties which are not either the same as or similar or analogous to those which he performed immediately before the commencement of this Act; and in case of question as to the duties proposed to be imposed upon an officer being similar or analogous, the Lord Chancellor shall decide, having regard to the rank and position previously held by such officer. 30

The Lord Chancellor may, with the consent of the Treasury, increase the salary of any officer who is by this Act attached to the Supreme Court, or any Court, Division, or Judge thereof, and whose duties are increased by reason of the passing of this Act. 35

In case it shall appear to the Lord Chancellor that, by reason of the consolidation or abolition of offices under the provisions of this Act,

A.D. 1877.

the continuance of the services of any officer holding during good behaviour, or during good behaviour subject to removal for cause by some Court or Judge, is unnecessary, the Lord Chancellor may, with the concurrence of the Treasury, make arrangements for the release of such officer from his duties, and thereupon it shall be in the power of the Treasury to award to such officer such compensation as, having regard to his period of service, to the tenure of the office held by him, or to any rights of succession to a position of higher rank and emolument in his office, which may have been conferred upon him by statute, the Treasury shall consider just and reasonable: Provided always, that the sum so to be awarded shall not exceed *three fourth* parts of the salary and emoluments of the office held by such person, nor be less than *one half*, nor, when the length of service exceeds *fifteen* years, be more than *one thirtieth* part of such salary and emoluments in respect of each year of completed service in an office possessing the statutable privileges above referred to: Provided also, that no such officer appointed before the passing of this Act shall be so released without his consent.

In every case in which the compensation awarded under such special circumstances, affecting the tenure or position of an officer as are above referred to, shall exceed the amount which might be awarded under the provisions of the seventh section of the Superannuation Act, 1859, without a special minute being laid before Parliament, the compensation shall be awarded by special minute of the Treasury, stating the reasons for it, and a copy of the minute shall be laid before Parliament within *fourteen* days of the date of the minute, if Parliament be then sitting, or if not, then within *forteen* days of its next meeting.

Any existing officer attached to any existing Court or Judge whose jurisdiction is abolished or transferred by this Act, and whose emoluments or statutory rights of promotion or succession are affected by the passing of this Act, shall be entitled to prefer a claim to the Treasury; and the Treasury, if it shall consider his claim to be established, shall have power to award to him such sum, either by way of compensation, or as an addition to his salary, as it thinks just, having regard to the tenure of office by such officer and to the other circumstances of the case.

74. Subject to the provisions in this Act contained as to existing officers of the courts whose jurisdiction is hereby transferred to the Supreme Court, the Lord Chancellor, the Chief Justice, the Chief Justice of the Common Pleas, and the Chief Baron, or any two of them, of whom the Lord Chancellor shall be one, with the

A.D. 1877. concurrence of the Treasury, shall within two years from the commencement of the Act, determine what officers, clerks, or other persons holding subordinate positions, requisite for the permanent organisation of the official staff of the Supreme Court, and every court and division thereof, shall be retained or employed; and may, with the like concurrence, abolish any unnecessary office, or reduce, or in case of additional duties increase, the salary of an office, or alter the designation or duties thereof, notwithstanding that the patronage thereof may be vested in an existing Judge.

When a vacancy occurs in any office after the passing of this Act, 10 an appointment shall not be made thereto for the period of one month without the assent of the Lord Chancellor given with the concurrence of the Treasury; and further the Lord Chancellor may, with the concurrence of the Treasury, suspend the making any appointment to such office for any period not later than the *first day of December* 15 *one thousand eight hundred and seventy-nine*, and may, if it be necessary, make provision in such manner as he thinks fit for the temporary discharge in the meantime of the duties of such office.

Subject to the provisions of this Act preserving their patronage to existing Judges, all offices which may not be abolished in manner 20 aforesaid shall continue, and shall when vacant be filled up in manner following:

All officers attached to the High Court, or the Chancery Division thereof, who have been heretofore appointed by the Master of the Rolls or Vice-Chancellor, shall continue, while so attached, 25 to be appointed by the Master of the Rolls and Vice-Chancellor and their successors respectively in the same manner and on the same conditions and occasions as heretofore.

All officers of the Chancery Division attached to the Land Judges, heretofore appointed by such Judges, or who under the provisions of this Act shall be attached to the Land Judges, shall 30 be appointed by them with such approval as heretofore.

All other officers attached to the Divisions of the High Court shall be appointed for each such Division by the President thereof.

All officers attached to any Judge shall be appointed by the Judge 35 to whom they are attached.

Subject to these provisions, all officers assigned to perform duties with respect to the Supreme Court of Judicature generally, or attached to the High Court of Justice generally, or the Court of Appeal, and all Commissioners to take oaths or affidavits in 40 the Supreme Court, or for whose appointment other provision is not expressly made in this section, shall be appointed by the Lord Chancellor.

A.D. 1877.

Any statutable power existing at the passing of this Act to enable any officer or officers of any court to appoint to any office, or to employ any persons in duties appertaining to any office, is hereby repealed, and the right of appointing to such offices, if they shall be continued, shall rest, in the case of offices attached to Divisions, in the Presidents of the Divisions, and in all other cases in the Lord Chancellor, but no vacancy in any of such offices shall be filled without the concurrence of the Treasury.

Any qualification required for appointment to any office by any statute in force at the commencement of this Act shall continue.

Any officer of the Supreme Court of Judicature, or of the Court of Appeal, or of the High Court, or of any Division or Judge thereof (other than such officers attached to the person of a Judge as are removable by him at his pleasure) may be removed by the person having the right of appointment to the office held by him, with the approval of the Lord Chancellor, for reasons to be assigned in the order of removal.

The authority of the Supreme Court of Judicature, and of the Court of Appeal and of the High Court of Justice, over all or any of the officers attached to the said Courts, or any of them generally, may be exercised by the Lord Chancellor, and over the officers attached to any Division of the High Court by the President of such Division, with respect to any duties to be discharged by them respectively.

75. Every person who at the commencement of this Act shall be authorised to administer oaths in any of the Courts whose jurisdiction is hereby transferred to the High Court of Justice shall be a Commissioner to administer oaths in all causes and matters whatsoever which may from time to time be depending in the said High Court or in the Court of Appeal.

Powers of
Commissioners to
administer
oaths.

76. After the passing of this Act no successor to the existing Receiver Master shall be appointed; and it shall be lawful for the Lord Lieutenant, with the consent of the Lord Chancellor, to release the existing Receiver Master from the further discharge of his duties in the same manner, and upon the same terms, as the Lord Chancellor was empowered to release the other Masters by the Chancery (Ireland) Act, 1867; and upon the death, resignation, or release of such existing Receiver Master, the powers and duties in lunacy matters vested in and performed by the Receiver Master other than those connected with the management of land shall be exercised and performed by the Lord Chancellor, and the officers attached to him according to the course of procedure in the Chancellor's court and

Receiver
Master.

A.D. 1877.

offices, and the powers and duties vested in and performed by such Receiver Master in reference to the management of landed estates, and the supervision and control of receivers over the same shall be exercised by the Land Judges, and all matters and business which shall be then pending in the office of such Receiver Master in reference to receivers appointed over any estate by or in pursuance of any order of the Court of Chancery, or any of the Judges or Masters thereof, or of the Lord Chancellor entrusted by the Queen's Sign Manual with jurisdictions in Lunacy, and the accounting of such receivers and the letting and management of the estates over which any such receiver shall have been appointed shall be thereupon transferred to the said Land Judges, and shall thenceforth, subject to any Rules of Court to be made by the Lord Chancellor, with the concurrence of the Land Judges or either of them, be prosecuted and conducted before such Judges or one of them in the same manner as the same would have been prosecuted or conducted before the Receiver Master if this Act had not been passed; and all matters and business, other than as aforesaid and other than the audit of public accounts, which shall be then pending in the office of such Receiver Master, shall, 20 subject to Rules of Court and to the power of transfer, be distributed among the Judges of the Chancery Division of the said High Court as the Lord Chancellor, with the concurrence of any two of the Judges of the said Division, shall direct.

Any references to appoint receivers over land which may be 25 made by any Judge of the High Court of Justice, including the Lord Chancellor entrusted in Lunacy as aforesaid, after the death, resignation, or release of said Receiver Master shall be made to the said Land Judges, or one of them, and the accounting of the receivers appointed either under such references or by the Land 30 Judges themselves, or by any other Judge, and the control of such receivers, and the management of the estates over which they shall be appointed, shall be exercised by the Land Judges.

Provided always, that nothing herein contained shall prevent any Judge, or the Lord Chancellor intrusted in Lunacy as aforesaid, 35 from himself appointing a receiver over land, or over personal estate other than land, in any case in which he shall think it expedient to do so, and in any such case the Judge may, if he shall think it expedient, and in all cases in which he shall appoint a receiver over personal estate other than land he shall, by order direct that 40 all subsequent proceedings with regard to such receiver shall be taken in his own Court, and thereupon all such proceedings shall be taken before such Judge or his officers.

A.D. 1877.

Appeals from any orders made by the said Land Judges with regard to any matters connected with Receivers or the management of land shall lie to the Court of Appeal and not to the Court or Judge by whom reference to them to appoint or take the accounts of a Receiver shall have been made, and no order so made shall require to be confirmed by such last-mentioned Court or Judge.

Subject to any Rules of Court and unless the Court or Judge by whom any such reference shall be made shall otherwise order, all sums of money received by any receiver shall, after payment of or providing for the necessary outgoings of and allowances in respect of the estate over which he shall be so appointed, be lodged to the credit of the cause or matter in which the reference to the Land Judges shall have been made, or shall be paid by said Receiver according to the orders of the Judge to whom such cause or matter is attached.

Subject to Rules of Court, references to the said Land Judges shall be distributed between them as the Lord Chancellor, with the concurrence of the said Judges, or either of them, shall from time to time by any regulation direct.

20 The jurisdiction to audit certain public accounts, and every other jurisdiction (if any) not in reference to causes, matters, or proceedings in Chancery, now vested in the Receiver Master, shall, unless Parliament shall otherwise direct, after the death, resignation, or release of the existing Receiver Master, vest in and be exercised by the Local Government Board for Ireland.

The officers connected with the office of Receiver Master shall be transferred and attached to the Land Judges, and be employed in duties similar or analogous to those which they at present discharge, and they shall hold their offices by the same tenure and upon the same terms and conditions, and receive the same salaries, and, if entitled to pensions, be entitled to the same pensions as if this Act had not been passed.

Provided also, that all the powers relating to existing officers of the courts and to the reorganization and new arrangement of offices herein contained shall also apply to the officers of the Receiver Master.

General orders shall be made by the Lord Chancellor with the concurrence of the Land Judges, or either of them, to regulate the practice and procedure connected with the matters the subject of this section.

Provided always, that no Land Judge appointed before the first of January one thousand eight hundred and seventy-five shall be bound to discharge the duties imposed upon the Land Judges by this section,

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The Lord Lieutenant, with the consent of the Lord Chancellor, may, if he shall think fit before the commencement of this Act, exercise the powers by this section conferred with respect to the release of the Receiver Master from the further discharge of his duties, and in such case or in case of vacancy in the office before 5 the commencement of this Act, the several provisions in this section contained shall take effect, and such of the same as relate to the Land Judges shall be applicable and shall apply to the Judges of the Landed Estates Court, and such as relate to the Judges of the Chancery Division shall be applicable and shall apply to the 10 Judges of the Court of Chancery.

Salaries and
pensions of
officers.

77. *There shall be paid to every salaried officer appointed in pursuance of this Act such salary out of moneys provided by Parliament as may be determined by the Treasury with the concurrence of the Lord Chancellor.*

An officer attached to the person of a Judge shall not be entitled to any pension or compensation in respect of his retirement from or the abolition of his office, except so far as he may be entitled thereto independently of this Act; but every other officer to be hereafter appointed in pursuance of this part of this Act, and whose whole time shall be devoted to the duties of his office, shall be deemed to be employed in the permanent Civil Service of Her Majesty, and shall be entitled, as such, to a pension or compensation in the same manner, and upon the same terms and conditions, as the other permanent civil servants of Her Majesty are entitled to pension or compensation.

Clerks of
Assize and
Nisi Prius.

78. Clerks of Assize and Nisi Prius on circuit may be appointed and paid in the same manner as heretofore. Clerks of Nisi Prius in Dublin may be appointed by the existing Chief Judges of the Queen's Bench, Common Pleas, and Exchequer Divisions, and shall 30 be paid as heretofore; but such right of appointment shall not be continued to their successors, and other provisions shall be made for the discharge of the duties now discharged by such clerks, under the provisions of this Act relating to future offices of the High Court.

Solicitors
and attor-
neys.

79. From and after the commencement of this Act, all persons admitted as solicitors, attorneys, or proctors or by law empowered to practise in any Court, the jurisdiction of which is hereby transferred to the High Court of Justice or the Court of Appeal, shall be called Solicitors of the Court of Judicature, and shall be entitled to the same privileges and be subject to the same obligations, so far 40 as circumstances will permit, as if this Act had not passed; and all persons who from time to time, if this Act had not passed, would

A.D. 1877.

have been entitled to be admitted as solicitors, attorneys, or proctors of or been by law empowered to practise in any such Courts, shall be entitled to be admitted and to be called Solicitors of the Court of Judicature and shall be admitted by the Lord Chancellor, and 5 shall, so far as circumstances will permit, be entitled as such solicitors to the same privileges and be subject to the same obligations as if this Act had not passed.

Any solicitors, attorneys, or proctors to whom this section applies shall be deemed to be Officers of the Court of Judicature; and 10 that Court, and the High Court of Justice, and the Court of Appeal respectively, or any Division or Judge thereof, may exercise the same jurisdiction in respect of such solicitors or attorneys as any one of Her Majesty's superior courts of law or equity might previously to the passing of this Act have exercised in respect of any solicitor 15 or attorney admitted to practise therein.

PART VI.

Jurisdiction of Inferior Courts.

80. The several rules of law enacted and declared by this Act shall be in force and receive effect in all Courts whatsoever in Ireland, so far as the matters to which such Rules relate shall be respectively cognizable by such Courts.

Rules of law
to apply in
Inferior
Courts.

PART VII.

Miscellaneous Provisions.

81. All books, documents, papers, and chattels in the possession 25 of any Court, the jurisdiction of which is hereby transferred to the High Court of Justice or to the Court of Appeal, or of any officer or person attached to any such Court, as such officer, or by reason of his being so attached, shall be transferred to the Supreme Court of Judicature, and shall be dealt with by such officer or person in such manner as the High Court of Justice or the Court of Appeal may by order direct; and any person failing to comply with any order made for the purpose of giving effect to this section shall be guilty of a contempt of the Court making such order.

Transfer of
books and
papers to
Court of
Judicature.

82. This Act, except as herein is expressly directed, shall not, 35 saving as to circuits, &c. unless or until other commissions are issued in pursuance thereof, affect the circuits of the Judges or the issue of any Commissions of

A.D. 1877. Assize, Nisi Prius, Oyer and Terminer, Gaol Delivery, or other commissions for the discharge of civil or criminal business on circuit or otherwise, or any patronage vested in any Judges going circuit, or the position, salaries, or duties of any officers transferred to the Court of Judicature who are now officers of the Courts of Common Law in Ireland, and who perform duties in relation to either the civil or criminal business transacted on circuit.

Saving as to
Lord Chan-
cellor.

83. This Act, except so far as herein is expressly directed, shall not affect the office of Lord Chancellor, nor the rank, salary, or pension attached to such office; and the officers in the Lunacy Department, and the officers personally attached to or connected with the Lord Chancellor, shall continue attached to him in the same manner as if this Act had not passed; and all duties which any officer of the Court of Chancery may now be required to perform in aid of any duty whatsoever of the Lord Chancellor, may in like manner be required to be performed by such officer when transferred to the Court of Judicature, and by his successors. It shall be in the power of the Lord Chancellor, with the concurrence of the Treasury, to abolish, or alter the duties and designation of any offices whether in the Lunacy Department or attached to himself, and to fix the salaries of such as shall be retained, but so that no existing officer holding office during good behaviour shall receive a less salary than heretofore, or hold office otherwise than he did before.

Provisions
as to Great
Seal being in
commission.

84. When the Great Seal of Ireland is in commission, the 25 Lords Commissioners shall represent the Lord Chancellor for the purposes of this Act, save that as to the Presidency of the Court of Appeal, and the appointment or approval of officers, or the sanction to any order for the removal of officers, or any other act to which the concurrence or presence of the Lord Chancellor is hereby made necessary, the powers given to the Lord Chancellor by this Act may be exercised by the Senior Lord Commissioner for the time being.

PART VIII.

Fixing and
collection of
fees in High
Court and
Court of
Appeal.

85. The Lord Chancellor, with the advice and consent of the other Presidents of the Divisions of the High Court, or any one of them, and with the concurrence of the Treasury, may, either before or after the commencement of this Act, by order, fix the fees and per centages to be taken in the High Court of Justice or in the Court of Appeal,

A.D. 1872.

or any office connected therewith, or by any officer of those courts or the Lord Chancellor, or other judge of those courts which officer is paid wholly or partly out of public money, and may from time to time by order increase, reduce, or abolish all or any of such fees and per-centages, and appoint new fees and per-centages, to be taken in the said courts or offices or any of them, or by any such officer as aforesaid.

All such fees and per-centages shall (save as otherwise directed by the order) be paid into the receipt of Her Majesty's Exchequer 10 and be carried to the Consolidated Fund, and they shall be taken by stamps, or in such other manner, and subject to such regulations as to the mode of taking and accounting for the same, as the Treasury, with the concurrence of the Lord Chancellor, may from time to time direct.

15 (1.) Any document which ought to bear a stamp under this Act, or under any order made in pursuance of this Act, shall not be of any validity unless and until it is properly stamped, but if any such document is through mistake or inadvertence received, filed, or used without being properly stamped, the Lord Chancellor or the court may, if he or it shall think fit, order that the same be stamped as in such order may be directed, and on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if such document had been properly stamped in the first instance.

20 (2.) The Commissioners of Inland Revenue shall keep a separate account of any money received in respect of stamps under any orders made in pursuance of this Act, and subject to the deduction of any expenses incurred by those Commissioners in the execution of this section, the money so received shall, under the direction of the Treasury, be carried to and form part of the Consolidated Fund.

25 (3.) Any person who forges or counterfeits any such stamp, or uses any such stamp, knowing the same to be forged or counterfeit, or to have been previously cancelled or used, shall be guilty of forgery, and be liable on conviction to penal servitude for a term not exceeding seven years, or to imprisonment with or without hard labour for a term not exceeding two years.

30 40 An order under this section may abolish any existing fees and per-centages which may be taken in the said courts or offices, or any of them, or by the said officers or any of them, but subject to

A.D. 1867. the provisions of any order made in pursuance of this section, the existing fees and per-centages shall continue to be taken and accounted for in the existing manner.

PART IX.

Unclaimed Dividends in Bankruptcy.

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*Amendment
of the Irish
Bankrupt
and Insol-
vent Act,
1857, with
respect to
the un-
claimed
dividend
account.*

86. From and after the passing of this Act, sections eighty-four, and two hundred and ninety-seven of the Irish Bankrupt and Insolvent Act, 1857, shall be and the same are hereby repealed, and the following provisions shall thereupon be in force and have effect:

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As soon as may be after the passing of this Act, the Governor and Company of the Bank of Ireland shall, upon an order of the Lord Chancellor to be made in that behalf, transfer to the account of the Commissioners for the Reduction of the National Debt at the Bank of England, all Government securities and cash standing in the books of the Bank of Ireland at the time of the passing of this Act to the credit of an account called "the Unclaimed Dividend Account," under the Irish Bankruptcy and Insolvent Act, 1857.

15

As soon as the said Government securities have been so transferred, the Treasury shall by warrant direct the Governor and Company of the Bank of England to cancel such securities in their books.

20

All unclaimed dividends and all moneys unclaimed, the produce of any bankrupt's estate, which shall from time to time after the passing of this Act be paid into, or transferred to the credit of the "Unclaimed Dividend Account," under the provisions of section 295 of the Irish Bankrupt and Insolvent Act, 1867, shall after the expiration of five years from the time at which the same have been respectively paid into, or transferred to the said account, be paid to the account of the Commissioners for the Reduction of the National Debt, in such manner as the Treasury may direct. The Commissioners for the Reduction of the National Debt shall apply all cash transferred to their account in pursuance of this section in reduction of the National Debt in the same manner as the moneys issued to them under the Sinking Fund Act, 1875.

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Where any Court having jurisdiction in the matter of bankruptcy is satisfied that any person claiming is entitled to any dividend or other payment out of the moneys carried to the account of the said Commissioners under the provisions of this section, such Court may

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order payment of the same in like manner as it might have done if the same had not been carried to the said last-mentioned account.

All salaries, allowances, and expenses before the passing of this

Act charged on and payable out of the said Uncollected Dividend
5 Account shall from and after the passing of this Act be paid out
of moneys to be provided by Parliament for such purpose.

PART X.

Final Appeal.

87. All decisions, judgments, decrees, or orders of the Court of Appeal shall be subject to appeal to the House of Lords, in the cases and under the conditions in and under which the like decisions, judgments, or orders of the Court of Appeal in Chancery in Ireland, or of the Court of Exchequer Chamber in Ireland, would have been subject to appeal to the House of Lords or to the Queen in Council if this Act had not been passed, or as may be directed by any Act of Parliament affecting the Appellate jurisdiction of the House of Lords, or any powers therein contained.

Except as herein-before provided with respect to error in certain cases on the Crown side of the Queen's Bench Division, error or appeal from any judgment, decree, or order, subsequent to the commencement of this Act, of the High Court of Justice, or any Division or Judge thereof, or of the Courts of Admiralty or Bankruptcy, or any Judge of the same respectively, may be brought only to the Court of Appeal constituted by this Act, and not directly to the House of Lords or Queen in Council, any previous law or usage to the contrary notwithstanding.

Nothing in this Act shall prejudice any right existing at the commencement of this Act to prosecute any pending writ of error or appeal, or to bring error or appeal to the House of Lords, or to the Queen in Council, from any prior judgment or order of any Court, whose jurisdiction is hereby transferred to the High Court of Justice or to the Court of Appeal.

Supreme Court of Judicature (Ireland).

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B I L L

For the constitution of a Supreme Court of Judicature, and for other purposes relating to the better Administration of Justice, in Ireland.

(Prepared and brought in by
Mr. Solicitor-General for Ireland and
Sir Michael Hicks-Beach)

Ordered, by the House of Commons, to be Printed,
12 February 1837.

[Bill 66]

Under 8 o.z.

A